



San Francisco Law Library

No.

Presented by

EXTRACT FROM BY-LAWS.

Section 9. No book shall, at any time, be taken from the Library Room to any other place than to some court room of a Court of Record, State or Federal, in the City of San Francisco, or to the Chambers of a Judge of such Court of Record, and then only upon the accountable receipt of some person entitled to the use of the Library. Every such book so taken from the Library, shall be returned on the same day, and in default of such return the party taking the same shall be suspended from all use and privileges of the Library until the return of the book or full compensation is made therefor to the satisfaction of the Trustees.

Sec. 11. No books shall have the leaves folded down, or be marked, dog-eared, or otherwise soiled, defaced or injured. A party violating this provision, shall be liable to pay a sum not exceeding the value of the book, or to replace the volume by a new one, at the discretion of the Trustees or Executive Committee, and shall be liable to be suspended from all use of the Library till any order of the Trustees or Executive Committee in the premises shall be fully complied with to the satisfaction of such Trustees or Executive Committee.

871
870
No. 2393

IN THE
United States Circuit Court of Appeals
NINTH CIRCUIT

THE STEAMER SAMSON, and BARGE NO. 8
BARGE NO. 9 and BARGE NO. 27,

COLUMBIA CONTRACT COMPANY, a Corporation,
Claimant and Appellant,

SHAVER TRANSPORTATION COMPANY, a Cor-
poration,

Libellant and Appellee,

STANDARD OIL COMPANY OF CALIFORNIA, a
Corporation,

Respondent in Personom.

Appeal from the District Court of the United
States for the District of Oregon.

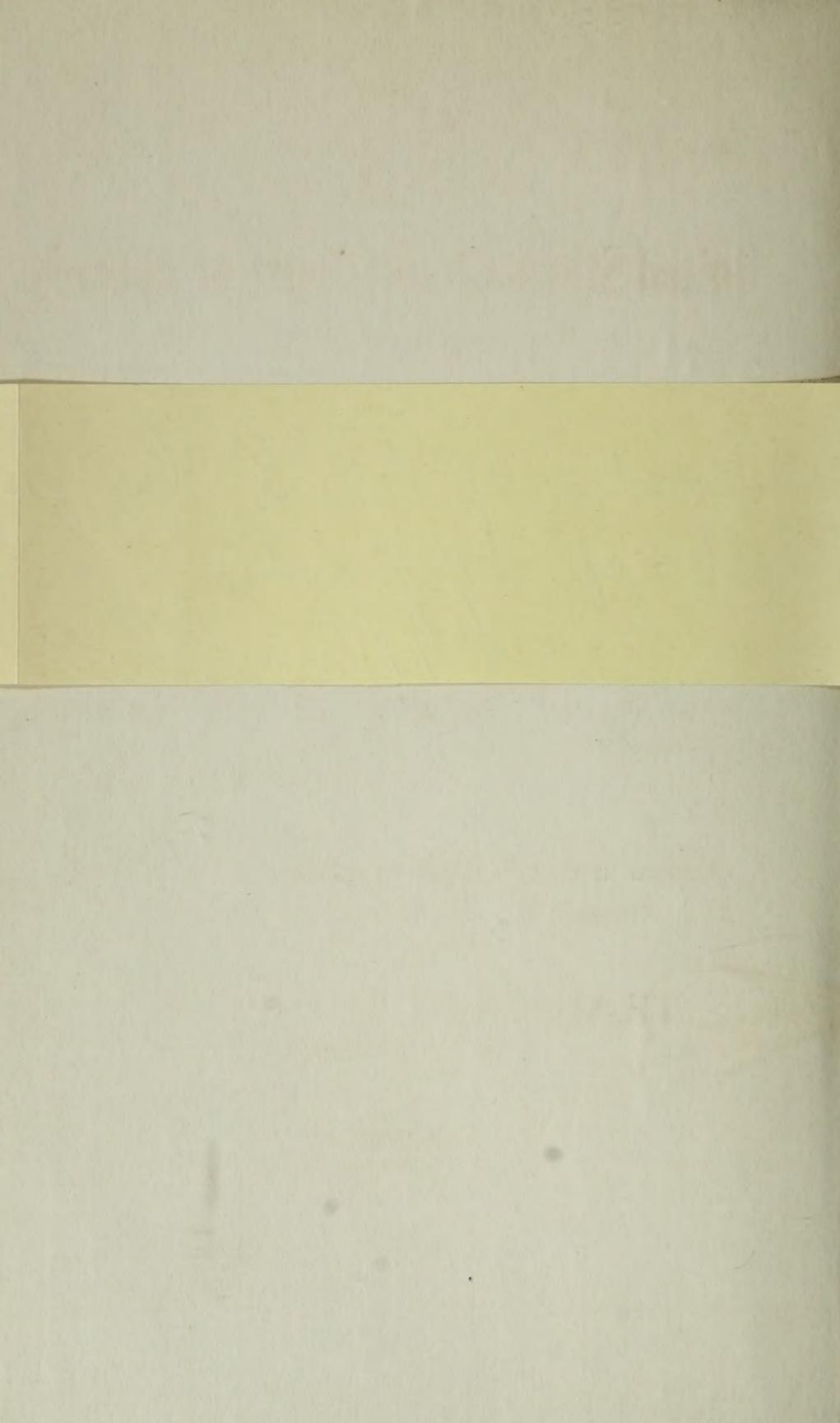
TRANSCRIPT OF RECORD.
(In Three Volumes)

VOLUME III.
Pages 1341, to 2094 Inclusive

FILED

MAR 30 1914

Records of U.S. Bureau
of Appraisals



No.

IN THE

United States Circuit Court of Appeals NINTH CIRCUIT

THE STEAMER SAMSON, and BARGE NO. 8
BARGE NO. 9 and BARGE NO. 27,

COLUMBIA CONTRACT COMPANY, a Corporation,
Claimant and Appellant,

SHAVER TRANSPORTATION COMPANY, a Cor-
poration,

Libellant and Appellee,

STANDARD OIL COMPANY OF CALIFORNIA, a
Corporation,

Respondent in Personom.

Appeal from the District Court of the United
States for the District of Oregon.

TRANSCRIPT OF RECORD. (In Three Volumes)

VOLUME III.

Pages 1341, to 2094 Inclusive

IN THE
United States Circuit Court of Appeals
NINTH CIRCUIT

THE STEAMER SAMSON, and BARGE NO. 8
BARGE NO. 9 and BARGE NO. 27,

COLUMBIA CONTRACT COMPANY, a Corporation,
Claimant and Appellant,

SHAVER TRANSPORTATION COMPANY, a Cor-
poration,

Libellant and Appellee,

STANDARD OIL COMPANY OF CALIFORNIA, a
Corporation,

Respondent in Personam.

**Names and Addresses of Proctors
upon this Appeal:**

For Claimant:

Teal, Minor & Winfree, Spalding Bldg., Portland, Oregon

For Libellant:

Wood, Montague & Hunt

Spalding Bldg., Portland, Oregon

For Respondent:

Snow & McCamant, Northwestern Bldg., Portland, Oregon

Index to Volume I.

	Page
Amended Libel	1
Answer	9
Answer of Claimant to Supplemental Libel.....	29
Answer of Respondent to Supplemental Libel.....	39
Argument C. E. S. Wood	587
Cost Bill—Respondent's	68
Cost Bill—Libellant's	74
Cost Bill of Standard Oil Co.—Objections of Li- bellant to	78
Claimant's Objection to Cost Bill of Libellant.....	79
Cost Bill of Libellant—Claimant's Objection to....	79
Claimant's Objections to Cost Bill of Standard Oil Co.	82
Cost Bill of Standard Oil Co.—Claimant's Ob- jection to	82
Cost Bills—Opinion on—Objections to.....	85
Cost Bills—Order Settling	90
Decree—Final	66
Final Decree	66
Libel—Amended	1
Libel—Supplemental	18
Libellant's Cost Bill	74
Merits—Opinion on the	52
Opinion on the Merits	52
Objections of Libellant to Cost Bill of Standard Oil Co.	78
Opinion on Objections to Cost Bills	85
Order Settling Cost Bills	90

	Page
Respondent's Cost Bill	68
Supplemental Libel	18
Supplemental Libel—Answer of Claimant to.....	29
Supplemental Libel—Answer of Respondent to....	39
Testimony—Libellant's.	
Captain Edward Sullivan	91-143
Alexander Martinson	111
Charles Kayser	133
Eddie Grove	280-6
Martin Loaland	331
Elias Dahl	355
Charles Johnson	386
Ole Grove	417-452-484
D. C. O'Reilly	434
Joe Oleson	479
Henry F. Stayton	487
Henry Kness	552
Capt. J. W. Shaver	556
Christopher O'Bryan	573

Index to Volume II.

Testimony—Claimant's.

Capt. Charles Jordan	589-1167
Hans. Jensen	787
Frank H. Goodell	795
Pete Lursted	866
Einir Grunstad	881
Thomas E. Parker	910
Capt. Albert Crowe	952
Fred Pederson	1006

	Page
Xenephon Merjano	1057
Capt. Joseph O. Church.....	1069
A. Sass	1128
Capt. J. P. Copeland.....	1133

Testimony—Libellant's.

Hans Jensen	941
Capt. Michael Moran.....	1137
John Ostervolt	1196—1247
Capt. Edward Sullivan	1287—1322
Capt. Johnson	1308
Ole Grove	1311
Henry Stayton	1317—23
Capt. J. W. Shaver.....	1323

Index to Volume III.

Testimony—Libellant's.

Capt. J. W. Shaver (continued).....	1341, 1551, 1614, 1986
Capt. J. N. Smith.....	1408
Capt. A. L. Pease	1429
J. H. Johnston.....	1455
Capt. O. W. Hosford.....	1574
A. M. Conway.....	1599, 1745, 1982
Charles M. Nelson.....	1751
Wm. B. Honeyman.....	1764
G. Kirkham Smith.....	1996

Testimony Standard Oil Co.

Joseph Supple.....	1781
Peter Carstens	1883

	Page
Testimony—Claimant's.	
Alfred Duncan	1805
Joseph Paquet	1821
Robert M. McIntosh.....	1875
Daniel Kern.....	1907, 1969, 1975
C. W. Bale	1926
J. H. LaMoree.....	1932
S. H. Shaver.....	1935
T. E. Follett.....	1950
C. A. Puariea.....	1958
Capt. J. E. Copeland.....	1976
<hr/>	
Additional Assignments of Error.....	2086
Additions to Apostles	2097
Apostles, Additions to.....	2097
Appeal—Bond on	2069
Appeal—Notice of	2067
Assignments of Error.....	2073
Bond on Appeal.....	2069
Certificate of Clerk U. S. District Court to Addi- tions to Apostles.....	2108
Certificate of Clerk U. S. District Court to Copy of Motion to Take Supplemental Libel from Files, etc., and That Respond- ent in Personam Answered.....	2108
Clerk's Certificate	2093
Consent to Allowance of Motion to File Addi- tions to Apostles.....	2097
Error—Additional Assignments of.....	2086
Error—Assignments of	2073

Page

Exceptions to Libellant's Supplemental Libel,	
Respondent's	2105
Exhibit D—Claimant's.....	1714
Exhibit 3—Libellant's.....	2016
Exhibit 16—Libellant's	2036
Exhibit 32—Libellant's	1998
Exhibit 34—Libellant's.....	1984
Motion of Respondent to Take Supplemental Libel from the Files and Dismiss.....	2100
Motion to File Additions to Apostles, and Con- sent to Allowance of Motion, etc.....	2097
Notice of Appeal.....	2067
Opinion on Motion to Take Supplemental Libel from the Files, etc.....	2102
Order Certifying Up Original Exhibits.....	2091
Order Denying Exceptions to Supplemental Libel, and Granting Respondent Fifteen Days to Answer.....	2108
Order Enlarging Time to File Transcript.....	2088-89
Order of Submission of Appeal and Allowing Filing of Additions to Apostles.....	2110
Order Overruling Motion to Take Supplemental Libel from the Files, and Allowing Re- spondent Twenty Days to Further Plead..	2101
Respondent's Exceptions to Libelant's Supple- mental Libel.....	2105
Statement of Clerk of United States District Court	2091
Transcript—Order Enlarging Time to File ..	2088-89

collision occurred, a short distance off Hunts Mill Point on the Oregon side of the river?

A. Yes, sir.

Q. Now, suppose the collision did occur there. Where in your opinion, in a general way, would the stone barges have gone after the collision considering that either the port barge or the center barge smashed in the Henderson and tore her free, and that according to the testimony, the Samson was on a hard aport helm, and backing at the time of the collision?

A. Well, if she would have her headway checked and the barges stopped, they would drift right down the main channel, but if she had headway, and would strike a glancing blow on port helm, it would have a tendency to run the barges over towards Puget Island.

Q. Well, in your opinion, as the accident is described here, which have the greater headway, the stone barges and the Samson, or the oil barge and the Henderson?

A. The stone barges and the Samson surely would have as much again, or a little more head than what the others had.

Q. Why do you think so?

A. They were going more than as fast again; they were going with the current, and the oil barge and the Henderson was going against the current, which would check the speed much quicker.

Mr. SNOW: Check the speed of what?

A. Either one. The one going with the current would go much further than the one going against

the current. The one going against the current in time would stop herself, and the other one wouldn't stop until she run against something or dropped the anchors or something.

Q. You say you have handled these heavy ships and docked them, etc.

A. Yes, sir.

Q. What is the habit of stopping with these heavy ships, in docking them a long way off?

A. Why, usually if you have plenty of time, you stop sooner than you think you really ought to, because you can always go ahead, and if you go too close, you are liable to run into something; so they usually stop them far enough off and most always have to give a bell to go ahead again; and if the water is shoal, you have to stop further away than you do if the water is deep; of course, going with the current, you would have to stop much further away than you would going against the current.

Q. Now, if the collision occurred where Captain Jordan says it did, not exceeding 800 feet off Puget Island, and near that slough, and under all of the circumstances as you are aware of them; the oil barge coming up at about three miles an hour, and the Henderson lashed to her with the head line, the two breast lines and the stern line and the tow line, and these were torn loose by the collision and the tide was half ebb, taking all these points into consideration, the Henderson having been backing for, say, a minute—the evidence is two minutes, but say

a minute—

Mr. MINOR: (Interrupting): No, we don't claim more than a minute for the Henderson.

Q. Well, say a minute. Backing for a minute; under all these circumstances of tide and current and backing and the rate of speed three miles an hour, where, in your judgement, would the oil barge herself, after being detached from the Henderson, have brought up, the oil barge also being on port helm?

Mr. SNOW: That is, if the collision had occurred where Jordan said it did.

Q. Where Jordan said it did, yes.

A. Well, if they hadn't dropped the anchors, why she would have went ashore.

Q. I left that out on purpose. I want to get first your idea of the inertia or the momentum; about how far she would have gone unstream after this collision and after the backing.

A. I think that current would have checked her—stopped her well inside of a quarter of a mile anyhow. That is, without dropping any anchor or any weight, it would have stopped her.

Q. You think that whatever inertia she had would have been brought to a standstill within one quarter of a mile?

A. Yes, sir, I am satisfied, against that current.

Q. Now, if you had all those retarding influences that I have mentioned and her anchors were let go almost immediately after the collision, say half a minute, what effect would that have, in your opinion,

in checking her headway, and where would she be found in relation to the point of the collision where Jordan says it was?

A. Why, she would have been pretty close to the main channel.

Q. And on which side of it?

A. Well, she might have been a little on the Oregon side, but a very little, I think. He couldn't have got much further than across the channel (examining Claimant's Exhibit A). No, I don't think she would have run to the ranges. I am satisfied she wouldn't.

Q. What is the indication given when a vessel drops her anchor as to whether, at the time of dropping the anchor, she is under strong headway.

Mr. MINOR: I don't think this is rebuttal.

Mr. SNOW: If she comes up without any jerk.

Mr. MINOR: Do you think this is rebuttal? I didn't ask about that.

Mr. C. E. S. WOOD: Yes, I think it is fairly within the intent of rebuttal. It is our argument, lays the ground for our argument.

Mr. MINOR: I didn't ask any questions about that. I object as not rebuttal.

Mr. C. E. S. WOOD: I have got to lay the ground for rebuttal argument, and whether you touch the particular question or not, it seems to me I have the right to ask the question.

(Question read as follows: What is the indication given when a vessel drops her anchor as to whether,

at the time of dropping the anchor, she is under strong headway?)

A. They can always tell if you drop the anchor and the ship has lots of headway, she will come up with a jerk; and the chain will always run out fast until the anchor strikes, and then, if you don't have much headway, it will slack up. But if lots of headway, it will come up with a jerk. It is pretty easy to tell if you are on the ship.

Q. Suppose that the anchor chains run out fast until the anchors hit the bottom, and then there was no jerk to them, practically stopped running out, or went out for a short time very easily and gently. What would be your opinion as to that?

Mr. MINOR: Objected to as not rebuttal, and because there is no evidence upon which the question rests.

Mr. C. E. S. WOOD: Yes, there is evidence.

Mr. SNOW: Go ahead.

A. That would show that she didn't have much headway. She was pretty near to a stand.

Q. Did you hear the testimony given about the injury to the starboard of the midship's line of the port barge—port stone barge?

A. Yes, sir.

Q. Did you see that injury yourself?

A. No, sir.

Q. If the port barge, the port stone barge, is the one that did the damage to the Henderson, was there anything on the Henderson that would inflict this

injury?

A. Why we had after the stairs on the port side—

Q. (Interrupting) You had after the stairs?

A. Aft of the stairs on the port side of the Henderson, just about where the barge struck, a little aft of where she first struck, we had a big pump, what we call a doctor pump, sitting in there; and it has a frame about three feet wide and about six feet long, I should judge.

Q. Made of what?

A. Made of cast iron, and it has a pump cylinder on one end and a pump on the other, and stands up about six feet high. Of course, there may have been something on that would have made this cut on the barge; could have been, I think. I don't know whether it did or not.

Mr. SNOW: What is the weight of that pump?

A. I should think about a couple of tons. It was sitting right in there where the barge went in, and in fact part of it drove clear under the boiler, and over on the other side of the boiler.

Q. What was the character of the corners of this frame as to being comparatively sharp instruments or sharp lines?

A. Why, it was a cast frame; had all square corners; then the upright pieces, of course, had some square parts. That might have had a tendency—or might have cut this.

Mr. SNOW: You mean made the cut on the barge?

A. Yes. I understood the cut on the barge was

right square like something sharp had cut it right square, and the Henderson stem iron is rounded corners. It is $2\frac{1}{2}$ inches crossways, and three inches fore and aft, with round corners, and it, in my opinion, would not make a sharp cut. I never saw this cut on the barge, but I understood it was sharp corners cut right in.

Q. You understand the way that the rock barges were lashed, and their relation to each other and to the Samson? With the middle barge projecting forward about 50 feet?

A. Yes, sir.

Q. And that the port barge was 36 feet wide. How wide is the Henderson?

A. The hull is 31 feet, and the guards would make it about $34\frac{1}{2}$ or 35 feet.

Q. With the barges lashed as I have stated, the middle one projecting 50 feet forward, in your opinion, could the port barge have hit the oil barge first, and glancing on down it, have struck the stem of the Henderson and received this wound on the starboard side of the midship line from the stem of the Henderson, and the middle barge have done the crushing in of the Henderson?

A. Why, I don't see how the middle barge could have got quartering in like it did, if the port barge had struck between the Henderson and the oil barge. The guard forward wasn't broken at all until we got back about 35 feet.

Mr. SNOW: Guard forward of what?

A. On the Henderson.

Mr. SNOW: Until you got back 35 feet from the stem?

A. Yes, 35 feet from the stem.

Q. And how about the possibility, with their relative widths, of the port rock barge getting this wound on her on the starboard side of her midship line, from the stem of the Henderson?

A. Well, I don't hardly see how she could have got in there, for that would be wider than what the space was between the Henderson and the oil barge. The lines would have to be broken in some way to get inside there. That would have thrown her bow off from the oil barge—the Henderson's bow off from the oil barge.

Q. From your experience, what is your opinion as to the possibility of the mass of rock barges hitting the oil barge first at any angle, and doing no more damage than scratching off her paint?

A. Why, I think if she had struck at most any angle, she would surely have dented the plates on the oil barge, at the speed they were passing.

Questions by Mr. SNOW:

Captain Shaver, with the Samson and 3,000 tons of rock coming down the river, between six and seven miles an hour, and the Henderson with her oil barge going up, approximately three miles an hour, and going up against the tide and current, and the Samson coming down with the tide and the current, and a head-on collision had occurred, as Jordan said it oc-

curred, would that have had any effect on the stem of the Henderson?

A. Why, it looks to me if it had come like he says, that all the jar would have been on the Henderson's bows, because if they had come, you might say, parallel with one another, the center barge could not have went quartering in the Henderson like it did. It would have torn the barge—well, from near the bow right back.

Q. None of the timbers of the Henderson, the forward timbers of the Henderson were at all disturbed or injured, were they?

A. No, sir, not until you got back about 35 feet.

Q. And 35 feet from the stem is where the Henderson began to be mashed in?

A. Yes, sir.

Q. All the framework of the Henderson forward of that point was intact as before the collision?

A. Yes, sir.

Q. Now, Captain Shaver, in regard to these currents, you say, do you, that you have picked up logs that have left—have floated into the river from points above this point of the collision, frequently?

A. Yes, sir.

Q. And, as I understand you, you invariably find these logs around in the neighborhood of the collision, on the Washington side of the channel, or in the main channel of the river?

A. Yes, sir, the most of them. Of course, a very few goes down Clifton Channel, but not many.

Q. The bulk of them are found in the main channel on the Washington shore?

A. Yes, sir, on that side of the river, yes, sir.

Q. Now, regarding the lashing of the oil barge to the Henderson, who was the captain of the Henderson at the time of this accident—Captain Stimson?

A. Yes, sir, Captain Stimson.

Q. And who was the mate?

A. Why, Crosby,

Q. Crosby. Captain Stimson is dead?

A. Yes, sir.

Q. The mate is out of the jurisdiction of the court?

A. Yes, sir, I don't know where he is.

Q. Have you tried to find him since then?

A. No, sir, he was a Mississippi River captain, and he was here to try to get his master's papers, so he could run the boats, but he didn't get them as fast as he expected, so he left, I guess.

Q. Now barge No. 93 was lashed to the Henderson by your crew?

A. Yes, sir.

Q. And the lines of the Henderson were used in so lashing the barge to the Henderson?

A. Yes, sir.

Q. These lines, as I understand it, were 7 inch Manila rope head line?

A. Yes, sir, and 7-8 inch pendant.

Q. With a 7-8 inch pendant?

A. Yes, sir.

Q. And there was also a head line of steel wire?

A. No, that was the head line, a seven inch Manila, and 7-8 pendant on it.

Q. I mean, the tow line was steel wire?

A. One inch, yes, sir.

Q. Then there were—

A. (Interrupting) two three-quarter breast lines.

Q. (Continuing) two three quarter breast lines.

A. The stern lines the same size as the head line.

Q. And the stern line of Manila rope the same size as the head line, seven inch Manila.

A. Seven inch Manila and seven-eighths pendant, yes, sir.

Q. That lashing was done by your crew to the barge?

A. Yes, sir.

Mr. MINOR: He wasn't there. He can't testify.

A. Nobody else would do it.

Q. Captain Sullivan didn't undertake to lash these vessels together?

A. No, sir.

Mr. MINOR: How does he know?

Q. Usually your crew does that lashing, does it?

A. Yes, sir. Nobody else does the lashing.

Questions by Mr. C. E. S. WOOD:

Just one question I would like to ask in this connection. In this lashing of the Henderson to the oil barge, under whose direction does the crew act, and for whom?

A. Well, the master of the boat, of course, has charge of that under—gives the orders to the mate

and the mate gives the orders to the men.

Q. You mean the master of the Henderson?

A. Yes, sir.

Q. But who instructs him, or gives the orders to take hold of the oil barge?

A. I don't quite understand you there. Of course they notify us when the oil barge is there.

Q. I mean he doesn't just go down, and grab the oil barge without any instructions from anyobdy?

A. No, sir, we give him orders to go after it, and of course it is in charge of the pilot. The Standard Oil people furnish a pilot, and then if she is lying out in the stream at anchor, we go out and make fast to her, and our captain sees she is made fast right, the way he wants it. Of course there is a certain way to always make fast to these ships and barges, a general way. It is about all the same.

Q. All the details of it are left to the Henderson?

A. Yes, sir.

Q. There is one other question I would like to ask, but this is brought to my mind; how would all these various lines that you have related, in your opinion, part at the time the collision—simultaneously, or one after the other?

A. Well, it would be one after the other.

Q. Why?

A. Of course it is a little owing to how she would strike, but the head line has a long lead, and it would be the first one that would break.

Q. What effect is the long lead?

A. Well, it is a long lead on Manila line which would have quite a little give, perhaps stretch a foot or so before it would break. If cable, of course it wouldn't stretch so much.

Q. And what was this?

A. About 150 feet of Manila and a pendant onto it so there would be quite a lot of Manila out; that would give some before it would break; and the breast line usually leads square abreast, and they would give some before they would break. Perhaps the boat might settle back, oh, three or four feet. She would list over some, perhaps, as the heavy strain came, before they would part.

Mr. SNOW : Wouldn't the tow line part before the breast line?

A. No, the stern line leads the other way. The stern lines would break about the same as the breast lines, or a little after. They are part Manila, and they would have some give, and the tow line, of course, wouldn't break until the Henderson would drop back to stern, perhaps 100 feet; it would perhaps have about 50 feet lead ahead, and it would have to drop back that much before it would break.

Q. Then each of these lines would break practically as the whole strain came upon them one after the other, due to their predecessor breaking?

A. Yes, sir.

Cross Examination.

Questions by Mr. SNOW:

Mr. Shaver, you heard Captain Crowe's testimony

in respect to that wonderful splinter that he produced—described?

A. Yes, sir.

Q. What was the size of that splinter with reference—

Mr. MINOR: I don't think this is cross examination. You don't want to call him as your witness.

Mr. SNOW: No, I don't want to call him as my witness.

Mr. MINOR: I object, then, as not cross examination. If counsel wants to call him as his own witness—

Mr. SNOW: No, I won't do that, as my position doesn't justify that. I will ask on cross examination.

Mr. MINOR: Objected as not cross examination.

Mr. SNOW: I will ask a question that is.

Q. What was the backing quality of the Henderson? Was she a good backer or not?

A. Yes, sir, good backer.

Mr. MINOR: That also is not cross examination.

Mr. SNOW: You make the objection, and I will ask the question subject to the objection.

A. She was considered by the pilots about as good a backer as there is on the river in handling the ships.

Mr. MINOR: As far as that last part is concerned, I move to strike it out as hearsay.

Q. What is your knowledge as to whether she is a good gacker, or not?

A. She is a good backer.

Q. Now how long, in your opinion, with the Hen-

derson going up against the tide and the current, at approximately three miles an hour, would it take the Henderson to come to a dead stop, if she started to back—after she had started to back?

A. Well, I am quite sure she would have stopped dead still inside of two minutes against that current.

Q. Now, calling your attention to Libellant's Exhibit 11, Photograph No. 5, I ask you whether or not the Henderson had a curved stem, and about how far from the stem—

Mr. C. E. S. WOOD: You mean the bow?

Q. Curved bow, I mean. About how far back from the bow the full beam of the vessel occurs. Now, did she have a curved bow?

A. It would be about 40 feet from the stem to where she would get her full breadth, I think.

Q. And with reference to the full beam of the Henderson, where did the Henderson indicate that she was struck, when you had raised her and brought her up to the yard? Where could you see she was struck with reference to the full beam of the vessel? In other words, whether she was struck on the curvature of the bow, or on the full beam?

A. It would be a little ahead of the full beam.

Q. How far, approximately?

A. Perhaps five feet.

Q. Then there was a little curvature of the bow at the point of the collision, at the point of contact?

A. Yes, sir, at the forward part of the collision.

Redirect Examination

Questions by Mr. C. E. S. WOOD:

I would like to ask a question I omitted. At the time you were raising the Henderson, was there drift in the Columbia River?

A. Yes, sir.

Q. Which way was that going?

A. Going down stream.

Mr. SNOW: With reference to the Clifton channel or the main channel?

Q. What do you mean by down stream?

A. Well, it would be drifting towards Astoria, down that way. We towed up against the current.

Q. But I mean, in reference to Prairie Channel, which way was it going?

A. Well, there was—the main part of it, of course, would go down the main channel. There wasn't very much drift at that time of the year, but there was some, of course.

Q. And I think I will ask this—ask about that question in rebuttal of Crowe. How about that splinter? You say you saw it yourself?

A. Yes, sir.

Q. What was the size of it?

A. Why, about the size of a toothpick, I think, a good sized toothpick; perhaps about four inches long. It was caught on one of the counter sunk drift bolts that holds the stem. It was in one of those, I think the second from the top?

Q. How far from the top?

A. Be about 15 inches.

Mr. SNOW: From the top of what?

A. From the top of the stem iron.

Cross Examination

Questions by Mr. MINOR:

Captain, how far from the stem of the Henderson are those lights placed—the side lights?

Mr. C. E. S. WOOD: That is not cross examination, Minor.

A. Between 60 and 70 feet.

Q. Between 60 and 70 feet?

A. I don't know the exact distance.

Q. And how from the center line of the boat are the lights placed? It is cross examination, Mr. Wood, You asked about lights.

Mr. C. E. S. WOOD: In relation to that angle?

Mr. MINOR: Yes.

Q. How far are these lights placed from the center of the boat—the center line of the boat?

Mr. SNOW: What boat do you refer to?

Mr. MINOR: I am talking only of the Henderson. I only asked the question about the Henderson.

A. I will have to do some figuring on that. Why, I should think about 12 feet.

Q. About 12 feet?

A. Yes, 12 feet—12 or 14 feet.

Q. I understood you to say if Captain Sullivan was running on the lines which he claims he was running on, as shown by Libellant's Exhibit 2, from the

point F to G, that Captain Jordan on the Samson couldn't have seen the green light at all.

A. No, sir, he couldn't have seen it at all.

Q. Now, if he was running on the line that Captain Sullivan says he was running on, from G to I, at that time the Samson was running somewhere on the line between K and L; what light would Captain Jordan be able to see on the Henderson?

A. I don't think he could see but the red light.

Q. The red light?

A. That is, if he steered straight on that course. If he would wobble a little, he could perhaps see the green, but if he steered straight on that course, I don't think he could see anything but the red light.

Q. See nothing but the red light?

A. I don't think he could.

Q. If the Samson was running from L to I, and Captain Sullivan with the Henderson was running from 1 to 2, what lights would they be able to see in running that distance?

A. You mean what lights would the Samson see?

Q. Yes.

A. Well, I don't think they could see but the red lights then.

Q. Only the red light?

A. Running on that course.

Q. Now, between I and the point marked here as the point of the collision—you see where it is—here is I here—between I and the point of the collision and 2 and the point of the collision, what lights would

Captain Jordan be able to see on the Henderson and her tow?

A. Well, if he got that close, I think he could see all of them.

Q. If he got that close could see all of them?

A. I think so.

Q. Then the closer he gets, the easier it is to see the lights is it?

A. Yes, comes round more of a straight line; up here it curves all the time. When he comes down here, he straightens up.

Q. Now, during all that time, what lights on the Samson would appear to Captain Sullivan?

A. Where do you mean—from here to here (indicating)?

Q. Wherever Captain Sullivan was, all the way down; what lights on the Samson would he be able to see?

A. What is this—L (indicating)?

Q. That is L. Say from K to L, and he is running between F and I. What lights would he have been able to see while running there?

A. Well, from K to L, if he was running on that course, he couldn't see but the green light, I don't think, but after he got past L, I think he could see both of them.

Q. You spoke awhile ago about the angle of light in which you said the angle of light would not be more than two feet in one hundred.

A. I didn't say angle of light. I said angle of boat.

Q. The way you said it, you said the angle would be about two feet in a hundred.

Mr. C. E. S. WOOD: He said the angle of one boat to the other.

Q. I know about what he means. That means, as I understand, that it would change the lights to the extent that they would show two feet in the hundred feet further to the right or left, as the case might be—starboard or port, as the case might be—because of the angle at which the boats were lashed together, would it?

A. Yes, sir.

Q. So that if a man were 100 feet away, he would be able to see the lights easily when, if they didn't have that angle, he would not be able to see the lights 100 feet off. Is that right?

A. How is that?

Q. If the boats were lashed together in the way you describe, and one boat was 100 feet from the other, he would be able to see the lights when, if the boats were not so lashed, he would not be able to see that light. Is that correct?

A. Yes, sir, it would make a little difference, yes. Of course the difference must be small, because they have been towing that way for 30 years that I know of, and I never heard any complaints about it.

Q. That is very true, Captain Shaver, but lots of things have been done for centuries and no complaint about it.

A. If much out of the way, there would have been

some complaint before.

Q. Can you tell me at what angle the light of the boat can be seen, say, at a distance of a quarter of a mile? Both lights of a boat can be seen, say, at a distance of a quarter of a mile?

A. No, I never figured that out. I don't know exactly what angle that would be.

Q. Can you tell me at what angle both lights of a boat would appear to the other boat when the boats were half a mile apart?

A. What angle, do you say?

Q. At what angle would both lights still appear? Of course they appear when both boats are dead ahead, but I want to know at what angle the lights would shine so both lights would appear?

A. That is something that I would have to kind of figure at. I can't hardly guess at it.

Q. No, you don't know that?

A. No, not exactly. If I was out and meet a boat, I could tell pretty close to it, but to tell that angle without figuring it out is something that would be hard to tell.

Q. You say there is plenty of water close to the Puget Island shore—to within 100 feet of shore all along the Puget Island shore?

A. Well, I said there was 15 feet, or plenty for certain kinds of boats. Of course, not plenty for real deep draft boats.

Q. Well, such a boat as the Samson?

A. Yes, sir.

Q. Plenty of water there within 100 feet of the shore?

A. Yes, 100 feet at low tide, I mean; not when the tide is up.

Mr. C. E. S. WOOD: You said all along Puget Island. I asked about there at the point. That is all I drew his attention to.

Mr. MINOR: That is all you did, but he said all along.

A. I don't mean below the island.

Q. Of course not below the island. That wouldn't be along the shore.

A. But from the place where they claim this collision occurred, up to the point of the island.

Q. Up to what point?

A. Well, where they come round that point.

Q. How much below that?

A. Sir?

Q. How much below that place where Captain Jordan says the collision took place?

A. That is what I mean, from there up.

Q. How about below that?

A. Runs out a little bit further.

Q. How much further does it run out there?

A. Perhaps 50 feet.

Q. Some of the witnesses, Captain, have placed this point of collision—Captain Jordan says he doesn't know exactly the point, or Captain Sullivan didn't know the exact point, but some of the witnesses have put it a little lower down than Captain Jordan put it,

perhaps a couple of hundred feet lower down. I think that was the testimony of one or two witnesses for the Samson. How about the water down there?

A. Just wait a moment, and I will tell you. I took a few soundings along down there, and I can tell pretty close to what it is. (Referring to notes). From the lower end of Ostervolt's seining ground, out to 15 feet at zero, it is 75 feet.

Q. How far would that be from the shore when the tide was at half ebb, and when the tide was a nine foot tide?

A. Well, I haven't got the exact measure there, but from brush to zero is 200 feet. That is, from where he has cut the brush, trimmed it off, to zero, is 200 feet; and 75 feet from there, 15 feet of water.

Q. 275 feet to a point where you get 15 feet of water?

A. Not from land. That is back to where the brush is.

Q. That is where the water goes, is it?

A. No, not in ordinary tide, it don't go over that.

Q. This was between $8\frac{1}{2}$ and a nine foot tide?

A. Yes, a nine foot tide, I suppose, would come up to there.

Q. That is not an ordinary tide. A nine foot tide would come up to there?

A. Yes.

Mr. GUTHRIE: The water would be 24 feet deep—not 15.

Q. That may be. I am not talking about the depth

of the water under those circumstances. These soundings were taken when?

A. About two or three weeks ago.

Q. You didn't take soundings in 1911, did you?

A. No, the water was deeper then than when these were taken.

Q. You don't know how deep the channel was in 1911?

A. Not exactly. But always 40 or 50 feet of water along there. Never found any trouble in the channel along there.

Q. Always 40 or 50 feet of water in the channel there?

A. Yes, sir.

Q. How far is the channel there from shore; that is, the channel where you get 40 or 50 feet of water—how far is that from Puget Island shore?

A. 30 feet across there for perhaps 1,000 feet.

Q. How far—that water which is 30 feet deep, how far does that extend from the shore, Puget Island shore?

A. This goes off on a gradual slope, you know, from this 15 feet. I don't know exactly how far out it would be, until you get 30 feet, but perhaps 100 feet or so.

Q. Now, I understand you to say that in your judgment, if the Samson were run at the speed Mr. Wood said she did, and run on a head such as Mr. Wood stated to you, and was 800 feet from the shore, as she turned the point of Puget Island; that in the

time elapsed as Mr. Wood stated, before the collision, and she was running on this helm, she would have run ashore, or would have turned around. Which is it?

A. Well, if she was 800 feet out, in my opinion, I am pretty positive she wouldn't turn clear around, but would head quartering upstream, and run ashore. And if only 400 feet, she would run ashore before she would turn around.

Q. Captain, when the Samson is running under this helm, you don't know anything about how fast she turns, do you?

A. Not exactly, but then I have a pretty good idea of how boats handle.

Q. You are just guessing, aren't you?

A. Of course guessing to a certain extent, but I have saw boats handled and handled them.

Q. But you never handled the Samson?

A. No, never handled the Samson.

Q. You don't know how much helm is given her, when you see her turn?

A. No, you couldn't tell exactly.

Q. You couldn't tell whether given one point, or whether given hard aport.

A. No, but I could tell if put hard over would turn around.

Q. You couldn't tell how much given her; some boats turn easier than others, don't they?

A. I didn't say what they gave; he said if it went according to Captain Jordan's testimony, and was hard over.

Q. If she was hard over, you think she would turn around in that time, or turn around so would be—either in shore or else turned around?

A. I said I didn't think she would turn around in that short space, but then she would turn around so would be a little quartering upstream in 800 feet. If only 400 feet, would surely run ashore.

Q. Surely run ashore?

A. Yes, sir.

Q. Now, how fast does the shore line recede from the course at which the boat was going at the time she turned that point?

A. Well, going around that point there, it doesn't take much of a helm to swing a boat around that point.

Q. I didn't ask you that. I say, how fast does the shore line recede from the course the boat was in at the time she turned the point. How fast does the shore line of Puget Island recede from that course?

A. Well, not so very fast.

Q. Almost at right angles, isn't it?

A. No, no place at right angles.

Q. I didn't say at right angles. I say almost at right angles.

A. No, sir, not almost at right angles.

Q. Now, in the course of the river—

A. (Interrupting) We could go straight down and make right angles by going well out in mid stream.

Q. As she comes down that point as she always

does, on the course on the outside of Coffee Island, and would come down here to a point where her lights would appear to a boat that was up here on the range lights—

A. Yes, sir.

Q. Above the point, the lower point of Puget Island?

A. Yes, sir.

Q. Then when she turned to go down the course there, she would have to turn at an angle which is not a right angle, but would have to turn an angle which is more than—is sharper than a half of a right angle, isn't it?

A. Yes, but she doesn't have to do that all at once.

Q. That may be, but I say she has to do that, doesn't she?

A. Yes, lacks a whole lot of being a right angle.

Q. But more than half of a right angle?

A. Yes, a little bit more than that.

Q. Now, Captain, if at that point, there were no shore line, she could never reach the shore, could she? In other words, if that was the point of the island, she could never reach Puget Island shore, could she?

A. I don't understand what you mean. Of course if that was all water, she couldn't reach it. What did you say?

Q. If you turn hard aport there, you say you think she would run ashore if she were 300 feet from shore—400 feet from shore; she would run ashore and wouldn't go down the channel if put on a hard aport

helm?

A. I don't think it, but I know it.

Q. You never ran the Samson.

A. No, sir, never ran on it, but I have seen her handled. I have seen other boats handled. How would they get her down the channel if she wouldn't?

Q. I am not answering questions. I am asking questions. It isn't my place to answer questions. Did you ever see the flotilla turn around, the Samson flotilla?

A. No, sir.

Q. Don't know how long it takes it to turn around?

A. No, sir, I don't know how long it takes.

Q. Don't know how fast it turns?

A. No, sir, but I say, knowing something about how boats handle and how tows handle.

Q. You never handled a flotilla of that character?

A. Not exactly like that, no.

Q. Those boats, as shown by the evidence, are flat bottomed boats—scows?

A. If flat bottomed, turn that much quicker.

Q. They are very much heavier than the Samson, aren't they?

A. Yes, sir.

Q. And you think handle that much quicker?

A. A flat bottom boat will handle quicker than a sharp bottom one, yes.

Q. I understood you also to say if the Samson had her helm hard aport, at the time of the collision, that

it would tend to throw the barges towards the Puget Island shore?

A. Yes, sir.

Q. Would that be the case if she were backing?

A. Not if she had her speed to back, it wouldn't. But if she was only backing from half to a minute, and it is proven by the evidence she didn't have her speed stopped.

Q. I asked you if she were backing would it make any difference?

A. Yes, sir, if she was backing, she would back stern from shore, and the bow would head in shore.

Q. The bow would head for shore?

A. Yes, sir, if backing and didn't touch anything; hadn't struck anything.

Q. If she were backing on a port helm, helm hard aport, it would have a tendency to throw the scows toward the Washington shore?

A. Yes, she backs her stern to port.

Q. I didn't say that. And if she were going forward with her helm hard aport, it also would have the effect to throw her barges towards the Washington shore, would it?

A. Yes, if had the helm to port and had any headway.

Q. So it doesn't make any difference if backing and she had her helm to port?

A. Not as long as she had headway.

Q. The fact of her having her helm to port would still tend to throw these barges toward the Wash-

ton shore?

A. Yes, if she had headway, and was steering, the rudder would throw that way.

Q. If she didn't have any headway at all?

A. If she didn't have any headway at all, she would drift down the channel.

Q. I want to know which way the barges tend to go?

A. If didn't have any headway at all?

Q. Yes, and backing.

A. You mean if standing dead still?

Q. I mean if backing. That is what I said.

Mr. ERSKINE WOOD: Just a moment. I want to understand whether you mean any going stern-way.

Q. I want to know if she didn't have any headway, and was backing with her helm hard aport, which way would that have a tendency to throw the barges?

A. It would throw the stern to port, and the barges toward the Washington shore. That is, if headed down stream. If she didn't have no headway at all, and standing still, would drift down the channel.

Q. What I want to get at, Captain, is this: It doesn't make any difference in which direction the Samson is going, if her helm is hard aport, it would still have a tendency to throw her barges toward the Puget Island or Washington shore.

A. If she had headway ahead, but not steerage

way, it would.

Q. If she didn't have steerage way, what would be the effect then?

A. If didn't have steerage way and drifting, would go down the other way.

Q. Which way would her barges go? That is what I want to know—which way?

A. The bow of the barges would go upstream, or towards the Washington shore if she was headed down stream.

Q. Then it doesn't make any difference whether going up stream or down stream if the helm was hard aport?

A. It does make a difference if it doesn't have headway.

Q. I say, if going upstream or downstream, it makes no difference?

A. You say, if had no headway?

Q. No, if the Samson was going upstream or downstream.

A. I didn't say makes no difference.

Q. Backing or going forward.

A. It makes a lot of difference. The stern always backs to port if going up or down stream.

Q. I am trying to get from you if the Samson—

A. (Interrupting) You was talking about the barges and the Samson going down stream, not about going upstream.

Q. Now, I will ask the question. Are you ready?

A. Yes, sir.

Q. Now, if the Samson were backing at the time that her barges left her; if she had been backing with her helm hard aport for a minute or more, in what direction would that backing to port have a tendency to throw her barges?

A. Throw her barges towards the island, Puget Island.

Q. Towards Puget Island?

A. Yes, sir.

Q. If at the time the barges were cut off, she had no headway, and was still backing, in what direction would that have a tendency to throw the barges, helm hard over?

A. Awhile ago you wanted to know whether going upstream or downstream. I say if going downstream would throw the barges toward the island.

Q. Answer the question.

A. I say it would throw the bow of the barges toward the island.

Q. Which island?

A. Puget Island.

Q. Now, if she were backing, and had not only overcome her momentum going downstream, but was actually making way upstream, and backing hard aport, which way would that tend to throw her barges?

A. If she backed long enough, it would throw the barges clear around upstream.

Q. That is what I say, now. It doesn't make any difference whether the Samson was going down with

the helm hard aport, or were going up, backing, with the helm hard aport. It would still tend to throw the barges toward the Puget Island shore.

A. No, sir, I didn't say that. Going upstream and backing would throw the bow of the barges around to Clifton Channel, and the stern to Puget Island.

Q. You have changed it.

A. No, sir, I didn't change. I beg your pardon.

Q. You didn't change it? The record is there.

A. We was never talking about the boats going upstream. We was talking about coming down.

Mr. C. E. S. WOOD: Why do you talk about the stone barges going upstream? That is not in the case.

Mr. MINOR: He is an expert.

A. I never talked about the barges going upstream. I never heard no question about the barges going upstream.

Mr. MINOR: I am satisfied with the record. The record is here. Answer the questions—that is all.

A. I would like to have them so I can answer.

Q. Captain, you have been on this river in the past five years; I mean ran a boat yourself?

A. Oh, I suppose in the last five years perhaps a year altogether.

Q. In the last two years, how much have you done, running boats on this river?

A. Not very much in the last two years.

Q. Well, how much?

A. Oh, perhaps two or three months.

Q. Two or three months in the last two years?

A. Yes, sir, I have been up and down the river, but not running boats myself; but have been up and down the river on boats.

'Q. I didn't ask that. I asked running boats. Just answer the question. Now, in the year 1911, how much did you run a boat on the rivers, Columbia and Willamette?

A. I couldn't say exactly. Perhaps a couple of months all together, something like that. I don't know exactly.

Q. You also said something, Captain, about very little current going down Prairie Channel, or as you call it, Clifton Slough—I believe you call it. Now, do you mean that very little water or current goes down Prairie Slough this year, or 1911?

A. Any year.

Q. Any year?

A. Yes, that is what I mean. Very little in proportion.

Q. You also said you had picked up logs which escaped from the Cowlitz boom? What year did you do that?

A. I don't remember the last year we picked them up, but haven't for several years. I don't remember when the last—the last time was since we had the Wauna, perhaps seven or eight years ago.

Q. Not for seven or eight years have you had anything to do with picking up these logs?

A. No, sir.

Q. And I understand you did pick them up several years before that?

A. Yes, sir, quite a few years.

Q. And I also understood you to say you picked up the logs along Puget Island.

A. Yes, a good many of them in the head of Puget Island.

Q. And along Cathlamet Channel?

A. Yes.

Q. And some you say down Tenas Illihee Island? Did I understand you to say that?

A. Yes, we picked up quite a few on the outside, and a few down Clifton Channel towards Knappa and down that way.

Q. A few down Clifton Channel?

A. Yes.

Q. And quite a number on the Tenas Illihee side of the channel?

A. Well, quite a few, yes. I don't know. I mean the main side of the channel, you know, quite a few in these sloughs that come in along there in different places.

Q. And I understood you to say that you picked up on Puget Island, but I didn't understand you to say at what points on Puget Island you picked up those.

A. All over the island, in this Ostervolt Slough and Grove Slough, and the head of the island and the little slough right at this point, a little slough right at this point (indicating). We picked up logs right in

there.

Q. Right in there doesn't mean anything.

A. Right below this point here. And all back of Coffee Island.

Q. Wait a minute. I don't understand what that is. This slough here is called Grove Slough or Ostervolt Slough. Which is that?

A. Either one, the same.

Q. You say you picked up in that slough?

A. Yes. Not right in the mouth, but up in here.

Q. Some distance in the slough?

A. They go this way, sloughs all through this island.

Q. You think they go across the island in these sloughs?

A. Some go this way; have a little slough right here, not exactly a slough, but a little wash-out here, where we picked up the logs in there.

Q. Right about the point of the island?

A. About the point. I don't know whether below or above.

Q. You picked up some in there?

A. Yes, sir.

Q. You think many of these logs you picked up on the island came down the main channel, and went up in the slough?

A. Those that come down the main channel go this way, but these sloughs over here go this way. Of course, the majority of these logs go down this way (indicating).

Q. The majority of the logs go down Cathlamet

channel?

A. The biggest lot of them, yes, and on the head of the island and through them sloughs.

Q. As I understand, Cathlamet Channel, is a comparatively shallow channel as compared with the main ship channel?

A. Shallow, but wider up at this end, more like a funnel to run them in.

Q. Comparatively shallow channel?

A. Some places shallow.

Q. As compared with the main channel?

A. Yes. They tow quite a few schooners and lighter draft ships that way.

Q. The current of the river goes down the main channel?

A. Yes, sir.

Q. So, notwithstanding the fact that the current goes down the main channel, the ship channel, yet most of the logs coming out of the Cowlitz boom, go down Cathlamet Slough?

A. The Cowlitz Boom is on that side of the river. They have a tendency to keep that way. It is wider here than here.

Q. The fact is, they do go down Cathlamet Channel?

A. Some of them, yes.

Q. As a fact, don't most of them go down there?

A. No, sir, not most of them.

Q. You didn't say that, then?

A. I said a good part of them, not most of them.

Q. What percentage, Captain?

A. I never figured out; I suppose three-quarters of them, perhaps.

Q. Three-quarters go down the Cathlamet Channel. Then most of them do.

A. I don't mean Cathlamet Channel. I mean the head of this island and Cathlamet Channel. We always get the big lot in here.

Q. I call your attention to the figures showing depths of water at the head of Cathlamet Channel, as compared with the figures showing depth of water at the head of Prairie Channel. Seemingly Cathlamet Channel is as shallow or shallower than Prairie Channel at the head.

A. There is a great deal of difference the way the current strikes.

Q. Answer the question. Seemingly, is it not shallower at the head than Prairie Channel?

A. Well, a little narrow space where about the same, but from the head of Tenas Illihee over two-thirds of the way across, shallower.

Q. Look at the figures and tell me that.

A. I don't care about figures. I know, I have been there.

Q. You think the figures are wrong?

A. I don't know whether they are or not. I don't know anything about them.

Q. If they show to the contrary, is that correct?

A. Maybe that ain't a new map.

Q. I didn't ask that. I asked whether they are

wrong.

A. I don't know anything about them. I know something about the channel.

Q. Captain, you can answer the question if you want to.

Mr. GUTHRIE: If he knows the figures.

Q. I called his attention to the figures, and asked if he thinks the figures are wrong. Look at them and see if you think the figures are wrong.

A. According to the figures, but I never looked at them much. The channel at the head of where you go down to Cathlamet is about the same to go to Clifton, but from the head of Tenas Illihee Island, about two thirds of the way across, it is shallower.

Q. That is your opinion?

A. Yes, sir.

Q. So if these figures don't show that to be a fact, you think the figures are wrong, do you?

A. Let's see those figures there. I don't see anywhere where it says deeper where going to Clifton than over here.

Q. Captain, please answer the question. Read the question.

(Question read.)

A. Well, yes, if they don't, but I don't say they don't.

Q. I don't say it either, but if they don't.

A. I see 17 feet here and 13 down here.

Q. If they don't, then you think the figures are wrong. That is what I want to get at.

A. Well, the figures at the head of Tenas Illihee Island show less than it does at the head of this channel.

Q. And from your own knowledge of the two channels, you think the Cathlamet Channel is the deeper channel, do you?

A. Yes, sir.

Q. At the head?

A. Yes, sir; that is what the figures show there, too.

Q. All right, if you think the figures show that, I am satisfied to let you think it.

Whereupon proceedings herein were adjourned until 2 P. M.

Portland, Oregon, Wednesday, January 22, 1913,
2 P. M.

CAPTAIN J. W. SHAVER, resumes the stand.

Cross Examination continued.

Questions by Mr. MINOR:

Captain, these logs that were in the slough, how did you get them out?

A. Why, in different ways. If it is large enough to go in with a large boat, go in with that; if not, sometimes have a smaller propeller. Sometimes pull them out on the tide.

Q. Isn't it a fact that fishermen bring them to you?

A. Not always, no.

Q. Frequently?

A. No, not much in the river. Sometime if the

fishermen have caught them along the shore; no, they didn't often bring them much at all. If they find them along shore, they go out and pick them up. The Boom Company always has a lot of men, and pay the boat crew besides.

Q. Didn't you use to pay the fishermen for getting the logs out and giving them to you?

A. We didn't pay anything, but the Boom Company did that. That was for catching them, not for bringing them out.

Q. Catching them?

A. Yes, sir.

Q. Were quite a number of these logs caught by the fishermen, and the Boom Company paid the fishermen?

A. Most of them were perhaps not caught, but they came in on their land, and they tied them up. Some of them, of course, were caught, but most of them floated in, and they tied them up and claimed they caught them.

Q. They were paid for taking care of them?

A. Yes, sir.

Q. You don't know where, of course, they caught them? Just know they had them?

A. Yes, that is all.

Q. Did you ever run a propeller?

A. Not particularly. Of course we have had small propellers. I have run them. We have one now, 25-horse power. I have run that quite a lot.

Q. You never towed the propeller?

A. Have towed with this, but never with a large propeller; but I have towed with this one. We tow rafts with her when the water is slack in the Willamette.

Q. That is a small boat?

A. Yes. Then we had a propeller once before, had her for two or three years. In fact, we have owned three propellers since we have been in business.

Q. But they were all little boats?

A. They were all small, yes.

Q. In your judgment, if the accident had occurred where Captain Sullivan says it occurred, the rock barges would have drifted over toward the Puget Island shore, and the Henderson would have drifted toward the Tenas Illihee Island side?

A. Yes, sir, the Henderson would have drifted that way, and the rock barges, if they had the headway that the evidence has shown, with port helm, they would have went toward the Puget Island shore.

Q. And I understand you to say, that in your judgment, the Samson could stop her momentum in how long a time?

A. I didn't say.

Mr. C. E. S. WOOD: The Henderson, you mean?

A. I didn't say anything about the Samson.

Q. In what time do you think the Henderson could stop her momentum?

Q. You mean the speed she had with the oil barge?

Q. Yes, three miles an hour. How long do you

think it would take her to stop her momentum?

A. Inside two minutes, I think, going against that current.

Q. You also said, I believe, Captain, that if the accident took place where Jordan says it took place, or about that place, and the oil barge had not loosed her anchor, that she would have gone ashore. Is that correct?

A. No, I said it would perhaps go a quarter of a mile.

Q. I understood you to say she would have gone a quarter of a mile and gone ashore.

A. No, not if it had been where Jordan said. If it had been where Sullivan said.

Q. Then you think she would have gone ashore?

A. Yes, and hadn't dropped her anchors, then she would have gone ashore.

Q. If it had happened where Jordan says, and she hadn't let go her anchors, where would the oil barge have drifted?

A. If she had had a port helm, she would have drifted over in that direction, perhaps half way between where Sullivan claims the accident happened, and where Jordan claims it happened.

Q. Would have drifted towards the Oregon shore about a quarter of a mile?

A. Yes, if had had a port helm, would have drifted towards the Oregon shore.

Q. About a quarter of a mile?

A. Yes, I think so.

Q. Now, Captain, you said something about their being a pump aft the stairs, which, as I understood you, was in a frame, a cast iron frame. Is that correct?

A. Yes, sir.

Q. And that this cast iron frame has square corners?

A. Yes, the bed has a square frame.

Q. Square?

A. Yes, sir. Wasn't exactly a pump, a big doctor pump. I suppose you have seen them—like they have on the Mississippi River, used for pump, what they call a doctor. Of course an ordinary pump would be lower, but this stood up about six feet high.

Q. This frame is of cast iron, and the corners of it are square?

A. Yes, sir.

Q. Was that frame broken?

A. We never seen it. It went overboard and we never found the pump at all.

Q. Went overboard?

A. Yes, sir, went overboard, and we never found the pump.

Q. Now, you also said something about the stem of the Henderson—I didn't altogether understand what you mean by the stem of the Henderson—it had some particular shape to it. What do you mean by that?

A. The stem iron?

Q. Yes.

A. Well, it is a little rounding on the front end on the corners, the corners a little rounding.

Q. What are the dimensions of that iron?

A. That iron is $2\frac{1}{2}$ in the widest part athwart ships. And three inches fore and aft, and right out at the front and it is about $2\frac{1}{4}$ inches, made a little taper like that, and corners a little rounding.

'Q. You also said that in your judgment, the cut in the rock barge couldn't have been made by the stem of the Henderson. I would like for you to tell me why.

A. Why, I said I didn't think it could be made by the way they told me the cut was. They said it was a sharp cut, a square cut right in. Of course, the Henderson's stem iron being a little rounding on the corners wouldn't make a sharp cut. I didn't see the cut myself at all.

Q. That is the only reason you have for saying that, is it?

A. The only reason, yes, the shape of it. Of course, my idea about this striking, it would be impossible, but of course that wouldn't have anything to do with making that dent.

Q. If it did strike, and did make a mark of that character, is there any other reason why you think it couldn't have been made by the Henderson?

A. How is that?

Q. Is there any other reason that you think of why you think it couldn't have been made by the Henderson?

A. No, if the barge came in like your evidence tries to show, why, of course, if it struck very heavy, if it hadn't got the force of the blow on the side of the hull, it would have broken the stem in, I think, if it struck the stem high up; that is, this little mark that Captain Crowe claims was up high, so there isn't much bearing there; the stem runs up and no dead wood back, and I think it would break it in if struck heavy.

Q. The evidence shows that the prow of this barge when loaded, doesn't stand up more than three feet from the water.

A. The dent where Captain Crowe claims it struck, and where this splinter struck, was about $5\frac{1}{2}$ feet from the water.

Q. Suppose it struck where the splinter was not, how about it then? Any other reason?

A. Three feet from the water?

Q. Not more than three feet, is my recollection.

A. Of course the stem would be stronger there; much stronger than it would at the top.

Q. And if the shape of the cut had been such as to lead you to think it was made by the stem of the Henderson, you know no other reason why it couldn't have been made by the Henderson?

A. No, it could have been made, of course.

Mr. SNOW: Without injury to the stem?

A. I don't think so; that is, never scratch the paint. No place where the paint was scratched off, and no indication that anything hit there at all.

Q. Well, have you ever had experience with boats running against tows or against barges or against logs and practically sustaining very little, if any, injury?

A. Yes, sir, but still if you have anything that will cut in quite aways, and the wood is wider than the iron, it will almost always leave a scratched place on the paint. If only two or three inches, it wouldn't, but eight inches, or a foot, or anything like that.

Q. I notice, for example, in this morning's paper, a statement in regard to a ship running into the dock at Astoria. Did you notice that?

A. No, I didn't see it.

Q. The paper said that the *Lolalla* ran into the Flavel dock and cut in 20 feet, but she wasn't hurt at all, and went right to sea.

A. They will surely see the paint off the ship on that. Might not hurt her, but will cut the paint, scratch the paint.

Q. Now, the evidence in this case shows that there was only one fender between the *Henderson* and the oil barge, and that that fender was about six inches thick, and that that fender was about opposite where the *Henderson* was rammed. I should say, the opening in the *Henderson*'s side. You understand?

A. Yes.

Q. Now, if the oil barge had come down and struck the *Henderson* there, would the impact have made any pressure upon the oil barge?

A. You mean if the rock barges came and struck

her there?

Q. Yes, struck there.

A. Well, if there had only been one fender, but this fender is round, and has two bearings, what they call a doughnut, about four feet up and down, and it flattens out. We can't use wood as it would dent a hole in, but have to use rope, so there is some give to it. It has a double bearing, a bearing on each side; if six inches through, the bearing would be about eight inches wide—two of them. Where the rock barges struck the Henderson, the first place was just a little aft of that, or about opposite; where the main part of the barge come in would be about half the width of the barge in there, about 15 feet or 17 feet, whatever it would be.

Q. Where the first impact was was about opposite the fender, so the witnesses say.

A. The edge would be, but not where the main part of the bow would come wouldn't be; would be aft of that.

Q. They said about where the cut was. I am not talking about the facts, but about the evidence. One of the witnesses here testified that the place where the Henderson struck, just forward of the house, as I understand it, was as nearly opposite as he could define it, the place where the fender was between the Henderson and the oil barge. Now, if the rock barge struck the Henderson such a blow as the Henderson must have sustained to cause the injury which you saw in the Henderson, don't you think the impact

would have been enough to cause that rope to make some dent in the plates of the oil barge.

A. I hardly think so in this case, because the main part of that striking was a little aft of where that—where the rope fender was. The rope fender—there is quite a little give to it. It will mash quite a little bit—flatten out.

Q. You said something about the guard was not broken on the Henderson until about 35 feet from the stem. Is that correct?

A. Yes, sir.

Q. Now, how high is that guard on the Henderson?

A. Why, up forward at the bow it is about seven feet, and at the forward part of the break, oh, I should judge, about $5\frac{1}{2}$ feet high.

Q. $5\frac{1}{2}$ feet high?

A. Yes, sir.

Q. Then the rock barge seemingly would have gone underneath that guard as far as the barge is concerned, and then the rocks would have struck the guard?

A. I don't know what would have struck, but if the barge had only been three feet high, it would never have struck the guard at all; would have went under all the way along.

Q. But the rock would have struck?

A. The rock never gets loaded right out to the bow of the barge. Always after the bits. Always piled after the bits.

Q. So you think there is a mistake then; that the barges really stood up from the water more than three feet?

A. I think it must have stood up more. Of course, I don't know about that.

Q. But you are going by this, the fact that if the barge didn't stand up more than three feet, you don't see how the barge struck the guard?

A. Couldn't have struck the guard. Could have struck under the guard and broken down. It looked as if it would have gone under it and mashed in.

Q. That is the only reason you have for thinking that the rock barges stood out of the water more than three feet, isn't it?

A. Yes. Of course, I don't know what they stood up.

Q. Captain Sorley, Captain Shaver testified, as I recall, that when he came on deck, all the lines between the Henderson and the oil barge were broken except one of the stern lines. Now, I understand you to say that the last line to break would be the tow line.

A. I think it usually would. Of course, there could be such a thing that the bow of the Henderson would push around, and the stern line would hold on too, but I don't see how it could.

Q. That is, as I recall Captain Sorley's testimony.

A. She would have to swing more than right angles before the tow line would have come tight.

Mr. C. E. S. WOOD: I think Captain Sorley's tes-

timony was one of the lines at the stern was hanging on, but not the stern line, so-called.

A. The tow line is taken up over the stern quarters.

Q. I understood you to say that this tow line would not break until the Henderson had gotten away say 150 feet. Did you say—

A. I thought perhaps about 100 feet. Of course I don't know on this particular ship where they made the tow line fast, but they usually make it on the after quarter. Of course, some times they have a hawser pipe in forward where they put it through. That gives shorter lead.

Q. The evidence is the Henderson was lashed to the oil barge so it extended about 100 feet up her side from the stern of the oil barge. Now, how long would her tow line be in that case?

A. You mean from the kevel to where it went through—

Q. (Interrupting) How long would the tow line be?

A. The tow line is 150 feet, but I don't know—if 100 feet there would perhaps be 100 feet from that kevel to where it went in on the ship—the oil barge.

Q. The tow line is fastened to the Henderson by a kevel not far from the stern?

A. Not far from the bow, right forward of the house.

Q. Right forward of the house?

A. On the Henderson.

Q. And it is fastened to the oil barge by a kevel which is further back?

A. Usually a post. There is an eye in the end of the tow line. They pass that to the oil barge; there is usually a post there they put the eye over, an iron post.

Q. Something was said about the Henderson rolling, and you said, as I recollect, that the accident couldn't have happened where Jordan said it did, because she couldn't have rolled or bumped across the channel, or the water would have been too deep. Is that what I understood you to say?

A. Yes, sir. The strong current rolls down the main part of the channel, and of course, anything deep like that would naturally be carried down the main channel.

Q. And if it happened where Sullivan said it happened, you think the bumping would have occurred just as you understand it did?

A. Yes, sir, the water was shallower there, and it would have bumped along until it came to a shoaler place and hung.

Q. Do you understand the water is shoaler where Captain Sullivan says it took place than where Jordan says it took place?

A. Yes, shoaler right there, I think. But anyway 100 feet of cable or 100 feet below, it is shallower. I think it is shoaler right there.

Q. Captain, coming back now to the question of the Samson turning around; if she were 800 feet from

the shore when she passed the point of Puget Island; she was coming, so the testimony shows, somewhere between six and seven miles an hour we will say; some witnesses may claim she was going faster. Now, in what time would she turn around?

A. You mean clean around, or run ashore?

Q. Well, turn around the way you said she would turn around.

A. I should think inside of two or three minutes.

Q. Inside of two or three minutes?

A. Yes.

Q. What would be your best judgment as to the time in which she would turn around—two or three minutes?

A. I don't mean to say she will turn clear around there, for I hardly think she would, but she would turn so as to head inshore and strike shore inside of two minutes.

Q. Now, I understood you to say that if she were 400 feet off from shore, in your judgment, she would strike shore in about two minutes, but if 800 feet off from shore, in your judgment, wouldn't strike shore at all, but would turn around?

A. No, I didn't say wouldn't strike the shore at all, but I thought she would; didn't think she would turn round inside of 800 feet.

Mr. SNOW: Can't turn around in 800 feet. Is that it?

A. Yes, I think can't turn around in 800 feet but head for shore.

Q. You think if she had been 800 feet off the point of Puget Island, and was going soon after that—soon after she turned, was going on a port helm and ran under a port helm for either two or three minutes.

Mr. C. E. S. WOOD: Which was it? I said under a port helm for about two minutes. I said two to three minutes.

Q. For two minutes. You think in that time she would run ashore, is that right?

A. Yes, sir, I think if she would come around there on a port helm and on a swing, and they put the helm hard aport, that she would have run ashore inside of two minutes.

Q. Inside of two minutes. To run ashore after they made that turn, she would have to change her course more than 90 degrees, wouldn't she?

A. More than what?

Q. 90 degrees.

A. I don't know exactly how much she would have to change it.

Q. More than a quarter of a circle anyway?

A. Yes, would have to go more than a quarter of a circle.

Q. And if she came around more than a quarter of a circle in two minutes, she would come around half a circle, at least, in double that time, wouldn't she, for the current wouldn't have been so much? She would turn faster when she got her bow that way?

A. Yes, I think if she had plenty of time and plenty of water, she would turn-to in four minutes; round-

to and head upstream, that is a working boat. I don't mean to stop her, but when working.

Q. Will she turn quicker working or will she turn quicker with the current and with her helm hard aport?

A. Turn quicker working the wheel.

Q. She would?

A. Yes, sir.

Q. Captain, if the Samson ran on the course shown on Libellant's Exhibit 2, from the point K to the point L, under what helm would she be running?

A. On that swing shown there, would be running a little port helm.

Q. And between the point L and the point I, on what helm would she be running?

A. Just a very little port helm there.

Q. And on from the point I, and the accident took place at the point O, marked point of collision, what helm would she be running on then?

A. Still be running the same way, the way it shows there.

Q. Slight port helm?

A. Yes, very little port helm.

Q. If she had continued on that port helm, Captain, and no accident had happened, and no collision had taken place, where would she go down the river?

A. Well, she would have to take that same circle; would likely strike the point of Puget Island.

Q. She really would strike, would she not, in the sands in front of Tenas Illihee?

A. No, sir, this is a gradual circle here; would strike about the lower end of Puget Island, I should think, on the same swing there.

Mr. C. E. S. WOOD: You say if the helm is not altered at all?

Q. Helm not altered.

A. That is very nearly running straight there.

Q. If she ran very nearly straight, she would run on the sands at the point of Tenas Illihee.

A. If you ran straight, but you see this is a little bit of a curve.

Q. From point I to Point O is really no curve at all; practically a line for some little distance back.

A. Still about the same curve the way it shows there, very little curve.

Q. You don't think that would run onto the sands of Tenas Illihee Island?

A. She wouldn't that time of the year. That was 950 feet from the point of Tenas Illihee Island, and we had 27 feet of water at that time of the year.

Q. And you were 950 feet from the point of Tenas Illihee Island?

A. Yes, sir, at low water of course it is down quite a little bit less.

Q. It is rather an unusual course for a vessel towing down river to pursue to get on that course that Captain Sullivan said the Samson was taking?

A. Yes, sir, it is.

Q. As a rule they do keep up to Puget Island?

A. Yes, up about the middle of the river. Quite a

lot from what that is.

Q. Keep up considerable nearer Puget Island?

A. Yes, sir.

Q. And ordinarily boats towing down the river keep well up towards the Puget Island shore?

A. Usually about the middle, between the upper end of Puget Island and the bluff. Sometimes a little closer to one side and some times a little closer to the other.

Q. Captain Stayton testified, that as he recalls the matter, the accident took place off the little slough, and he identifies the slough with the old trap in it, what you call the second slough, I believe.

A. Yes, sir.

Q. And below the range lights?

A. Yes, on the Oregon side of the range lights.

Q. On the Oregon side of the range lights. Now, had the accident taken place off that slough, opposite the point on that slough, where would the Henderson have drifted?

A. Well, if it had been close to the range lights, would have went right down the main channel.

Q. Wouldn't have gone over to where you found her?

A. No, sir, couldn't have drifted across that much.

Q. Couldn't have drifted across that much?

A. No, sir.

Q. He says, in his judgment, it took place below the ranges about off the mouth of the second one of these sloughs; about opposite that slough, the mouth

of that slough, but below the range line.

A. Yes, I understand that.

Q. In that case you don't think would drift to the place where you found her?

A. No, sir, would have to be further over towards the Oregon shore.

Q. And if it did occur at that place, where would the rock barges have drifted to?

A. That would all be owing to the headway they had, and as I said before, if they had headway, and was going ahead parallel, it would run them towards the island; and if they had backed a little bit, but not checked the headway, it would still head more to the island.

Q. In that case, you think they would have gone nearer to the island than they really did?

A. I don't know how close they were.

Q. The testimony seems to show that the lower one was not more than 200 feet from the island.

A. Well, at the lower end of Puget Island, the current sets over toward the Washington shore.

Q. Sets over towards Puget Island?

A. Below Puget Island; not up on the island, but below the island.

Q. The testimony, as I recall, shows that this last barge was anchored just about where—

A. (Interrupting) Along the sand bar; wasn't below the island.

Q. No, just above the sand bar, so you could look through what they call Cathlamet Slough; not

the channel, but really the slough?

A. Yes.

Q. That is where I understand the testimony showed this barge was anchored, not more than 200 feet from the shore of the island. If the accident had taken place off this little swale or slough, which you call the second slough, would, in your judgment, that barge have drifted to that point?

A. Well, that is hard to tell; owing to how much headway she had, and how long she hung onto the Samson; of course the barge itself wouldn't steer much, but if the lines hung onto the Samson, might have been carried on quite a little ways. Would have some steerage way herself, without any rudder, but not as much as if they had a rudder on her.

Q. Captain Stayton also testifies, as I recall, that in his judgment, the channel kind of divides on the point of Tenas Illihee Island, the greater portion, as he thinks, going down the main channel side, but that some part of it also goes down Prairie Channel side. What is your recollection of that fact?

A. Well, there would be some; of course, any point it always divides, and there would be some current go down Clifton side.

Q. It does to some extent?

A. Yes, sir, any point always divides the current a little.

Q. I don't know whether you or some other witness testified there were two comparatively deeper channels in Prairie Channel, one right near Tenas Il-

lihee Island 100 feet wide, and the other on the Oregon shore about 100 feet wide. Did you testify to that?

A. No, sir, not me.

Q. Ostervolt then testified, so I understand, anyway some witness testified to that effect. What is your recollection about that?

A. The deepest channel is along the Oregon side, then quite a flat from there over to Tenas Illihee Island point, and then a little deeper in closer to shore than out a ways.

Mr. SNOW: Closer to what shore?

A. Tenas Illihee Island point. Not very much, but just a little.

Redirect Examination.

Questions by Mr. C. E. S. WOOD:

Captain Shaver, in answering as you did about coming around that point on Puget Island, being under a port helm, did you have regard also to the fact of the current that was in the Columbia River? Captain Jordan's testimony was that the current set so strong off Puget Island toward the Oregon shore that he had to keep a port helm and didn't need to straighten it up.

A. I never noticed any particular difference in the currents. Of course, if you keep right in close to the point, she will set out a little, but if you keep off a few hundred feet, no side current there.

Q. It couldn't set off Puget Island beyond the

midstream of the current in the channel?

A. No, sir, doesn't set that far up, noticeable in handling a ship or boat or raft of logs, anything like that.

Q. In this diversion from the main river and the main channel into a side channel, such as Prairie Channel, is there any difference as to whether the floating body is shallow, like a log, or is deep down in the water?

A. Yes, sir. Anything deep is bound to follow the deep channel, while something that floats very high on the surface, it will often go where the shallow water is. Anything deep is bound to follow the deep channel.

Q. These logs that get away from the Cowlitz Boom were set afloat in the time of freshet, weren't they?

A. Yes, sir, the spring freshet broke them loose.

Q. Now, in these diversions of the river, such as Prairie Channel, how is the strength or the quantity of the flow through them in the time of high water and at the time of low water?

A. Well, in low water there is very little through there, and high water, of course it spreads out more, and there is more current goes through in high water than there is in low, but there is a much stronger current—the main body of the current will go through the main channel instead of going over to the side channels, and in this particular place, there at Bugby, the river above there straightens up. And to go down

Clifton Channel, it has to make pretty near a right angle turn, and that would force more of the current and drift and everything right down the main channel.

Q. How does the sharp angle of the river at Clifton Channel compare with the angle of the river at Cathlamet Channel? How does the angle with the main thread of the river of these two channels compare?

A. It is very much different. Where you go down to Cathlamet, the channel is not quite as straight as it is on the Rugby side, but quite a difference in the course; very much straighter down Cathlamet than it is down the Clifton.

Q. That is going down the Clifton you have to switch off at a greater angle?

A. Yes, sir.

Q. Now, let's say as a rough illustration, that the Henderson is lashed to the oil barge, the two together, using their mid-ship line make a "V", and that that "V" is going up the river, point forward. What would be the practical effect of the side light red on the port side of the Henderson, and the starboard light green on the starboard side of the oil barge, and as to any crossing or confusion as to anybody above them coming down?

A. I don't think it would make any particular difference. Of course, you could see both lights a little further; that is what I mean coming a little closer together, that the lights are quite a ways apart; you can tell the angle of the range lights, or masthead lights, rather, and the colored lights, the way the boat

is swinging, or what direction she is swinging.

Q. What is the particular effect—treating this "V" as one ship coming up the river, what is the particular effect of this angle as to enlarging or diminishing the arc in which the two lights are visible from above—from up the river?

A. Well, it would make a little larger curve, a little larger swing.

Q. A little larger arc of the circle. I will show you Libellant's Exhibit 11, Photograph No. 5, and ask you to explain if you can, assuming that the rock barges were about three feet above the water line at their bow, and that the stone was piled some 20 feet back from the bow, and from six to eight feet high, whether the rock barge itself, with its own nose would have caused this injury in the Henderson shown in the photograph, and explain why.

Q. I don't know as I quite understand what you mean.

Mr. SNOW: What photograph are you examining?

Mr. MINOR: Photograph 5.

Q. I mean, could the rock barges being only three feet above the water line, have caused that damage in the Henderson's hull, and taken away these guards? In reference to that question Mr. Minor asked you.

A. It don't look to me like it could. It would have went right in under the guard and just mashed the planking and the shear streak and the clamp streak, and still have left the deck there.

Q. Explain your idea of the way the damage was caused as shown? You have already said you saw the wreck.

A. It looks to me as if the barge is a spoon nose barge, and it must have struck up on top of the guard and went right in, quartering in, and broken everything down as she went in.

Q. But how could it strike on top of the guard if its upper line was only three feet above the water? You say it would go under.

A. I don't see how it could. At that point there the hull is about—or the guard rather, is from five to five and a half feet above the water, and if it was only three feet high, I don't see how it could have broken down thinks like it did there.

Q. I want you to explain your idea of how it happened. What did cause it?

A. Well, it looked to me as if the bow of the barge was higher than that. I don't see hardly how it could

Q. Now, how far did she cut into the Henderson? happen any other way.

A. About seven feet on deck, and not quite so much at the hull.

Q. Then, if her nose had gone in underneath the guard, and she had pushed in as much as seven feet, would that have shattered the side of the ship and caused that damage?

Mr. SNOW: Do you mean the stone?

Q. No, I mean if she had undermined it, mashed it

in below and gone into it.

A. No, I hardly think the deck would have tumbled down; it might, but this break doesn't show it fell down in that way, but it would be more apt to hang on, the deck beams would.

Q. What would be your idea, taking it as the facts were, with all this mass of stone on it, that crushed in the side of the Henderson?

A. I think it must have been the bow of the barge, but it must have been high enough so as to have struck on the guard, and, by being a spoon nose bow, it seems to be cut in more on the deck than it did on the water line; that would indicate that the bow of the barge kind of scooted onto the Henderson's hull.

Q. And was it your idea that the stone could have done any of that damage—the mass of stone on the barge?

A. I don't think so. It was quite a ways back from the bow. This mash in here shows about seven feet, and the stone, I think, is further back than that.

Q. Which line of these tow lines—which line is it, of all these lines mentioned, that were attached from the Henderson to the barge, carries the strain of towing?

A. The tow line.

Q. And that was all steel, as I understand it?

A. Yes, sir; one inch.

Q. And runs practically from somewhere towards the bow of the Henderson, back toward some after part of the oil barge?

A. Yes, the towing kevel. There were two on the Henderson. I don't know which one it was made fast to. One about five feet forward of the forward part of the house, and the other about 15 feet.

Mr. SNOW: Forward?

A. Forward of the forward part of the house. They usually use the after kevel.

Q. I don't understand how this is coming out in the wash. I understand it. Mr. Minor asked you some questions some time ago about how the head or the bow of the Samson would turn if she was backing. Now, while I think that you got it so we understand it; she might have been backing and still with headway on; she might have been backing and with sternway on; and she might have been backing and just standing still, as it were. Now, in order to clear that up, I want to ask you if she were going ahead, but her propeller reversed, that is, she had headway on and was backing, which way would her stern be thrown, and her bow?

A. If she was—

Q. (Interrupting) Going ahead, but her propeller reversed; that is, she was backing, but still had headway on and port helm.

A. The bow would swing to starboard.

Q. And the stern, of course, to port.

A. And backing on it as long as she had headway, and backing on the propeller, she would swing the stern to port, and the bow to starboard.

Q. Supposing she had sternway on, and was going

astern with sternway on and backing, with a port helm, what effect would that have to throw the bow?

A. She would still swing the same way. With port helm, you say?

Q. Port helm, yes.

A. If she had port helm and sternway, she might back straight. The propeller would perhaps offset the rudder.

Q. Then, if you had sternway on, and wanted her bow to swing to starboard, how would you set the helm?

A. Why, starboard the helm.

Q. That is, when she had sternway on?

A. Yes, sir.

Q. Now, if she was backing, that is her propeller reversed, but had neither headway or sternway on yet, was just in between, just standing still for a moment, what effect would that backing have with the helm aport?

A. Well, until she got enough headway so as to steer the rudder, would back stern aport.

Q. And her bow to starboard?

A. Yes.

Q. I think from this statement it is not necessary to go into up-the-river or down-the-river. What effect would the current have on this? Take it the way this was at this time, with the stone barges and the Samson coming down the stream with that half ebb tide current, what effect would that have on this backing?

A. With the helm aport?

Q. Yes.

A. Well, if she was straight, it wouldn't make any particular difference, but if she was a little bit quartering, the stern would swing a little bit faster than the bow, always the end next to the current will swing a little bit faster.

Q. Still the effect of throwing her bow to starboard would be the same?

A. Yes.

Mr. C. E. S. WOOD: We can work the rest out from these general answers.

Witness excused.

CAPTAIN J. N. SMITH, a witness called on behalf of the libellant in rebuttal, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. ERSKINE WOOD:

Captain, how long have you been acting as a pilot on the river?

A. Well, I have been master of steamboats for about ten years—master and pilot.

Q. Before that, what experience did you have?

A. Well, I have been steamboating about 15 years, first mate—mate, pilot and master.

Q. All together your experience has been about 15 years?

A. Yes, sir.

Q. That on the Columbia River, all of it?

A. No, sir, I have been up the Willamette some.

Been on the Columbia River about ten years.

Q. Have you towed much around this place where the collision is said to have occurred?

A. Yes, sir.

Q. Around Bugby Hole?

A. Yes, sir.

Q. Tell what experience you have had there in towing logs out of Clifton Channel, and how you do it.

A. Well, I have towed a great many logs there through the Clifton Channel, at all stages of water.

Q. How many years were you in that?

A. Well, I was towing logs about eight years.

Q. Tell how you would bring them up out of the channel.

A. Well, we go up there in the strong current; we go up the middle of the channel there, up the middle of Clifton Channel, until we get up to the head of Tenas Illihee; then we head off towards the upper end of the seining ground.

Q. How long are your log rafts?

A. One raft is about 600 feet; two rafts about 1200 feet. That is the rafts, and about a thousand feet of tow line.

Q. Have you towed both one and two rafts out of that?

A. Yes, three rafts. A tow is about 2,000 feet in length with two rafts.

Q. What is the fact as to whether your rafts as they come up out of the channel there, and go ahead

up into Bugby Hole, whether the rafts tail down the channel or down the Columbia River?

A. They tail down the Columbia River. The current in the ship channel is so much stronger than the current of Clifton Channel, you have to hold up to clear the head of Tenas Illihee Island; the current of the main channel is so much stronger than Clifton Channel, it would throw them into the island unless you keep well away from it.

Q. Where is it you are accustomed to tow the log rafts after leaving Clifton Channel?

A. At the June freshet, we always go through the slough at the lower end of Puget Island by Cathlamet.

Q. That is the slough that has been called here in the testimony, Cathlamet Slough, next to the lower end of Puget Island?

A. Yes, sir.

Q. If you are making for that slough, why is it that you pull your tow boat way up toward Bugby Hole?

A. Well, we have to do that to clear the head of Tenas Illihee Island.

Q. And when your boat is up towards Bugby Hole, and the tail of your raft down toward Tenas Illihee, how does the tail of your raft act?

A. Well, it wants to swipe the head of Tenas Illihee; as you come out of the slough, the current of the ship channel is so much stronger you have to pull up.

Q. You mean swipe the tail of your raft?

A. It swipes the tail end of the raft into the head of Tenas Illihee Island.

Q. So if you are making from Clifton Channel toward Cathlamet Slough, at the foot of Puget Island you have to pull well up into the river toward Bugby Hole, and then the current catches the tail of your raft and swipes it past the head of Tenas Illihee Island?

A. Yes, sir.

Q. So it tails down the main river. Is that right?

A. Yes, sir, have to pull up far enough to clear your rafts from the head of the island, then you haul down for Cathlamet Slough.

Q. You double back, then?

A. Go right back down the river again.

Q. Have you ever engaged in this business of picking up logs that are broken adrift out of the booms, Captain?

A. Yes, sir.

Q. Done much of that?

A. Well, not a great deal, but I have done some.

Q. How much have you done?

A. Well, I think I was down there two different times picking up logs.

Q. You mean two different seasons, or just twice?

A. Two different seasons, yes, sir—two different winters.

Q. Did you find any down Cathlamet Channel?

A. Very few.

Q. Where did most of them go?

A. Most of them go down the ship's channel; down Skamokawa, down there, Washington side.

Q. What sort of anchorage ground is it at this point in the river around Bugby Hole and Puget Island and Hunts Mill Point?

A. Good anchorage in there. I have anchored in there several times.

Q. State whether it is a fact or not that that was a customary anchorage ground for ships until the channel was changed?

A. Quite often ships anchored in there; anchored there in foggy weather and darkness, and one thing and another.

Q. Did you ever know of any ships ever dragging their anchors in there?

A. No, sir.

Q. There has been some testimony in this case that the Henderson was lashed at a slight angle towards the oil barge. I want you to tell what you know as to whether that is the universal custom on the river here in towing ships. Just tell about that.

A. Yes, sir, it is.

Q. Is that the way it is always done?

A. Yes, sir, towing a vessel alongside, you always pull the head in at a slight angle to make them steer.

Q. To make them steer?

A. Yes, sir.

Q. Does this have any appreciable effect on the appearance of the side lights as they would be seen by a man meeting these vessels head on?

A. No, I don't think so. Never been any question raised about it, or complaint made.

Q. You never heard it mentioned?

A. No, it has been the custom for years.

Q. There has also been some testimony here, Captain, that in bringing these oil barges or other ships into a dock, it is the custom to stop them half a mile off, stop the engines going, when half a mile's distance from the dock. What is the fact about that?

A. Well, it is always the custom to stop a long ways off, and run the way off your vessel.

Mr. MINOR: Do what with the vessel?

A. Get the headway off, so you will have her under control. Then if she hasn't got way enough to carry her into the dock, you can go ahead again.

Q. You some times have to give her two or three kicks ahead?

A. Some times go ahead two or three times before you land.

Q. If the collision occurred off Hunts Mill Point, as claimed by Captain Sullivan, and the Samson and her barges were going approximately seven miles an hour under a hard aport helm, at the moment of the collision where, in your opinion, would they have sheared to after the collision?

A. The Samson going seven miles an hour with the helm hard aport?

Q. Approximately that—seven miles an hour, and helm hard aport at the moment of collision; the engines had been backing about half a minute or a min-

ute.

Mr. MINOR: I don't think the witness has shown himself to be competent to answer this question. You haven't shown he knows anything about the Samson or the Samson's course at the time of the collision.

Mr. C. E. S. WOOD: I think it is enough if he is generally acquainted with vessels and their movements.

Mr. MINOR: Everything depends upon what the course of the Samson was at that time.

Mr. ERSKINE WOOD: I will show that, Mr. Minor.

Mr. MINOR: In other words, if the Samson was pointing right down Prairie Channel, it would be different than if the Samson was pointing right down the ship's channel.

Mr. C. E. S. WOOD: As this witness hasn't heard the testimony, it should be put not only the speed of the Samson but the weight of the barges, and fastened just as they were, and about her backing to port, and she was backing.

Q. Well, Captain, the testimony here, as I recall it, is that the Samson with her three rock barges, each loaded with 1,000 or 1100 tons of rock, and being towed as a spike tow, was coming down the river making approximately seven miles an hour; that it was the end of the Jue freshet, nine foot tide half ebb; that prior to the collision she was backing for approximately, we will say, three-quarters of a minute, and she backs to port, and at the time of the collision, her

helm was hard aport, and, accepting Captain Sullivan's version of the collision, the collision occurred off Hunts Mill Point, and the Samson and her barges were heading approximately, up to the time of the collision, towards the head of Tenas Illihee Island —that is approximately. Now, if at the time of the collision, under these circumstances, with her helm hard aport, what would be your opinion as to the direction the Samson and her barges would take after the collision with her engines stopped?

A. Well, she would swing off towards Puget Island.

Q. Did you see the Henderson as she lay there, a wreck, the next day or two?

A. I saw her once during the night time. I came by there once at night while she was there.

Q. Could you fix her location?

A. Well, not exactly. She was down towards the head of Tenas Illihee Island there on the Oregon side of the range.

Q. Well, if the collision occurred at the point where Captain Sullivan thinks it did, off Hunts Mill Point, and the Henderson was a wreck from the time of the collision on, where, in your opinion, would she have drifted?

A. Well, I think she would have drifted right down towards Tenas Illihee, the head of the island.

Q. If the collision occurred as Captain Jordan claims it did, 800 feet off Puget Island shore, off Ostervolt's seining ground, between his slough and the

next slough below it, where, in your opinion, would the Henderson have drifted from that point?

A. She would go right down the ship's channel.

Q. Captain Smith, in going around the point of Puget Island in Bugby Hole, under the conditions as they were that night, that is to say, the end of the June freshet, nine foot tide half ebb, have you ever experienced any difficulty in making that turn?

A. No, sir.

Q. Do you find that the current sets you off the island there so as to cause you any trouble?

A. No, sir, I never experienced any trouble. I have come around there with loaded ships and light ships and steamers and steam schooners. I never had any trouble.

Q. You mean with tows, Captain?

A. Yes, sir.

Q. Captain, have you passed the Samson enough to recognize her when you see her on the river at night?

Q. Passed her many times?

A. Yes, sir.

A. Yes, sir.

Q. Have you ever noticed the appearance of her side lights as you passed her, and how long they remained visible, whether they showed dead ahead, or anything like that, or whether they show across her bow?

A. Well, I never notived any peculiarities about them.

Cross Examination

Questions by Mr. MINOR:

Captain, you belong to the same Union to which Captain Sullivan belongs?

A. Yes, sir.

Q. You and he warm friends?

A. Well, we are friends all right.

Q. Did you ever tow what is known as an ocean timber barge, or an ocean pile barge?

A. Cigar rafts?

Q. Yes.

A. Yes, sir.

Q. When you were towing these barges, who was the pilot?

A. Well, there are two different men handled those rafts. I have been with all of them for the last eight or nine years, except last year—the last two years. Captain Pope handled them first, and Captain Turner for the last five or six years—Captain J. L. Turner.

Q. They are very unwieldly tows?

A. Yes, sir.

Q. And also very susceptible to currents, are they not?

A. Yes, more or less.

Q. Now, I will ask you whether it isn't a fact in towing that kind of craft around the point of Puget Island and down to the foot of Puget Island from Bugby Hole, you were not always cautioned by Cap-

tain Pope to hold the tow well up towards Puget Island side because of the currents?

A. No.

Q. You don't remember that?

A. No, sir.

Q. Did you never talk about that matter to Captain Church?

A. No, sir.

Q. Never talked to him about it at all?

A. No, sir.

Q. Do you remember having a conversation with Captain Church in Astoria soon after the collision between the Samson and her tows and the Henderson and her tow, in 1911?

A. Well, I have met—yes, I have met Captain Church in Astoria on several occasions and talked with him, but I don't remember any particular conversation in regard to tows.

Q. Do you remember having a conversation with him soon after this collision on the streets of Astoria, and talking about this collision?

A. I don't know as we discussed the collision. I don't recall the fact. We might have, as far as I could say.

Q. Didn't you at that time, and in that conversation, and on the streets of Astoria, just after this investigation before the inspectors, in talking about this matter say to Captain Church "Why, you remember that Captain Pope always had us hold our tows well up towards Puget Island, because of the

current setting down towards Prairie Channel there," or words to that effect.

A. No, I don't remember anything about it.

Q. You say you didn't have such conversation?

A. No. In fact, we never had any trouble with these cigar rafts in Bugby Hole, as far as I remember.

Q. Did you have such a conversation at all?

A. I don't remember it at all.

Q. You don't say you didn't have it?

A. I remember talking with Captain Church there, but I don't remember discussing these cigar rafts at all. I have no recollection of it.

Q. Did you ever serve as master of the Samson?

A. No, sir.

Q. Ever serve as pilot of the Samson?

A. No, sir, never been aboard the Samson.

Q. Never been aboard of her at all?

A. I have been aboard the ship, but never been employed aboard her.

Q. Did you ever serve as master of any propeller?

A. No, sir.

Q. You are not familiar with how propellers work?

A. Yes, I am.

Q. How did you get your familiarity?

A. Well, I have been pilot on propeller boats.

Q. What boats?

A. Steam schooners.

Q. What steam schooners?

A. Oh, various steam schooners. Most all of them that has come in here, I have been aboard.

Q. And those steam schooners go under their own steam?

A. Yes, all screw boats.

Q. And you have been pilot on them?

A. Yes, sir, am at the present time.

Q. Did you ever handle any propeller boats with tows?

A. No, sir.

Q. Don't know anything about that then, do you?

A. No, sir.

Q. A large part of your experience as master and pilot has been with stern wheel boats, hasn't it?

A. Yes, sir.

Q. And a very considerable part of it towing logs?

A. Yes, sir.

Q. Now, in towing logs out of Clifton Channel, I understand you tow them up, not down?

A. No, sir, most all of the towing was done upstream.

Q. Which side of this Clifton Channel, or Clifton Slough, as you call it, do you come up?

A. Well, we come up about the middle, favor the right hand side—the Oregon side. Coming out, the head depends on the water; slack water can come out any way, but strong current, you have to come up the middle to clear your raft from the head of Tenas Illihee Island. Pull up in that strong current and

strike that current, it will set you right down to the head of the island.

Q. And you come out there and pull straight up toward what point did you say?

A. Pull up about to the head of the Ostervolt seining ground there, head in about there, until you get them clear of the head of Tenas Illihee, then you go down.

Q. Now, how far up that river do you pull?

A. Depends on the length of the tow. If you have one raft, you don't have to pull so far. If you have two rafts, it is necessary to pull a little further.

Q. You pull up that way—

A. (Interrupting) Pull up there just far enough to clear the head of Tenas Illihee Island, and if going by Cathlamet, you have to pull down—down the river to get in the slough.

Q. You pull that way until the tail of your raft, however long it may be, passes around the point of Tenas Illihee Island?

A. Yes, until clear of the point.

Q. Coming up that slough to go through Cathlamet Slough, as I understand you to say you generally go, you have to make a pretty sharp turn around the point of Tenas Illihee Island.

A. Well, you pull way up here clear of the island, and you are then way above this slough you are going through; then you have to go down again, go downstream, right down the river.

Q. So you have to pull up so as to get the tail of

your raft above the point of Tenas Illihee Island?

A. Yes, sir.

Q. I understand you to say now, Captain, that if the accident had happened where Captain Jordan says it happened, which is off the Ostervolt seining ground, or, as one of the witness, Captain Stayton, says, on the point of the second slough, the slough below Grove Slough—you know that big Grove Slough?

A. Yes, sir.

Q. That in your judgment, the Henderson would have drifted straight down the ship channel?

A. Yes, sir.

Q. Where would the rock barges have drifted?

A. Well, the rock barges should—of course, it depends on whether or not they had any way on after they struck. If they had much way after hit, with helm hard aport, would have gone into the island; couldn't have gone any place else.

Q. The rock barges would have gone into the island?

A. Yes, sir.

Q. If the accident had occurred as Captain Sullivan said it occurred, down near, about 400 feet, I think he said, off Hunts Mill Point, 400 or 500 feet, wasn't it?

Mr. C. E. S. WOOD: Yes, about 400 feet.

Q. The rock barges would have drifted where, you say?

A. Down to the head of Tenas Illihee, down in

that direction.

Q. The rock barges would?

A. Oh, no, the barges; well, of course, if helm hard aport, would have went over towards the island some place.

Q. The rock barges haven't any helm at all.

A. That is the way the question was put to me.

Q. They had no steering apparatus at all. The Samson had the helm hard aport, and the rock barges cut loose from the Samson—which way would they have drifted?

Mr. ERSKINE WOOD: I don't say the rock barges were cut loose. The testimony don't show that.

Mr. MINOR: The testimony does show that.

Mr. C. E. S. WOOD: If Mr. Minor doesn't put the thing substantially right, then, of course, the answer fits his question.

A. Well, of course if the barges started the same place the steamer did, they would go in the same direction, evidently.

Q. The same direction as what?

A. As the steamer.

Q. What steamer? There are two steamers.

A. The Henderson.

Q. Go in the same direction as the Henderson. Now, as I understand, Captain, the evidence shows practically this: That one rock barge, the port rock barge, was cut loose within a few minutes, probably within one minute, certainly within two or three min-

utes after the collision. She was partly broken loose by the collision, and was cut loose entirely within one or two minutes after the collision. The other two were not cut loose at once. Now, in what direction would the rock barge which was cut loose right after the collision, or a minute after the collision, have drifted? The Samson having its helm hard aport, and having been backing for a minute before the accident took place, or about a minute before the accident took place.

Mr. C. E. S. WOOD: Do you want to give speed and current?

Mr. MINOR: Mr. Wood has given him the speed.

A. Well, with his wheel hard aport and backing, the barge would evidently head toward Puget Island. That is the way they would surely go, would go straight through here. That is the least resistance. Don't go sideway with any head on her; if going sideways, they couldn't have any headway.

Q. The fact they were headed that way, you think, would make them go toward Puget Island?

A. Yes, sir, if they had headway on them.

&. And how far would they drift towards Puget Island?

A. That would depend on the way they had.

Q. Well, now, how far is it from Hunts Mill Point to the head—to where Cathlamet Slough comes into the main channel?

A. Well, it is half a mile, probably a little more.

Q. Do you mean to say that the rock barge would

have drifted across the channel of the river under the circumstances detailed to you by Mr. Wood?

A. Would have drifted across from Hunts Mill Point?

Q. Across the channel of the river.

A. Not without some way; to run across would have to have some little headway.

Q. He gave you the facts as he understood them; taking the facts as he gave them to you, do you think the rock barge would have drifted across the channel of the river?

A. If the barges had some headway on them, and was swinging to starboard on port helm, yes, they would go across the river.

Q. Go across the river?

A. Yes, sir.

Q. You said something about stopping some way off in order to get the headway off your vessel when you were towing a tow.

A. Docking a ship.

Q. And you stopped the same way for the purpose of getting the headway off the ship, do you?

A. Yes, sir.

Q. How long will it take to get the headway off a ship without backing, supposing the ship was going three miles an hour, and that she weighs with her cargo, somewhere between five and six thousand tons. Yop know these oil barges, do you?

A. Yes, sir.

Q. Did you ever tow them?

A. Yes, sir.

Q. Take oil barge 93—did you ever tow that?

A. Yes, sir.

Q. Taking an oil barge of that character, how far will she go with her own headway?

A. Depends on the current.

Q. Wait a moment. How far would she go with her own headway, suppose she was going, at the time she was cut loose from the tow boat, three miles an hour, say, in dead water?

A. In dead water?

Q. Yes.

A. She would run quite a ways.

Q. How far?

A. A quarter of a mile, probably. Well, a little more, probably, in dead water.

Q. Now, how far would she run, in your judgement, against the current, where the current was such as it was on July 22, 1911, at or near Bugby Hole—at Bugby Hole or below Bugby Hole?

A. Well, she wouldn't go very far, in my estimation.

Q. Very far doesn't give anybody any idea. You just as well say she wouldn't go. How far, would she go, in your judgement?

A. A quarter of a mile.

Q. Now, Captain, you have been employed by the Shaver Transportation Company for a long time, haven't you?

A. Yes, sir.

'Q. Handled their boats for a long time? Ever run the Henderson?

A. Yes, sir.

Q. To what extent, in your judgement, would backing upon that barge for one minute stop the headway of the barge?

A. Well, it would have considerable effect on it.

Q. Considerable is very indefinite.

Q. Only going three miles and backing that boat a minute would stop her one-half anyway.

Q. Then it would be going about a mile and a half an hour?

A. Yes, sir.

Q. How far would she go under those circumstances, in your judgement, against such a current as there was at that time and at that place?

A. Well, I couldn't say in feet. She wouldn't go very far, though.

Q. Well, give your best judgement, Captain.

A. Two ship's lengths, or a ship's length. Two ship's lengths, probably.

'Q. Most of the time you were on the river, you were employed by the Shaver Transportation Company, were you?

A. I was with them eight or nine years.

Q. I believe you said you were on the river about ten.

A. Sir?

A. I think you said you were on the river about ten years.

A. Oh, I have been on the river about 15 years.

Q. 15 years?

A. Yes, I have held a license about that time.

Q. You have held a license about that time?

A. Yes, sir.

Q. And during that time, you were with the Transportation Company about—

A. (Interrupting) I was with them between eight and nine years.

Q. Did you ever tow two log rafts up Cathlamet Slough during the June freshet?

A. Yes.

Q. How often?

A. I towed two rafts up to the 12 or 13 foot stage; not the top of the freshet, towed two rafts to 13 or 14 feet from the mouth of the Willamette to Portland.

Redirect Examination

Questions by Mr. ERSKINE WOOD:

I understood you to say, Captain, in your opinion, the oil barge running at three miles an hour would go about a quarter of a mile in dead water before she lost her headway?

A. Well, I will change that. She would go further than that.

Q. And I later on understood you to say you thought she would go a quarter of a mile against the ebb tide.

A. Against the current.

Q. Against the current?

A. That is the way I meant it. In slack water she will go further than a quarter of a mile. She will run fully as far again as in the current.

Q. At three miles an hour, she will go, in your opinion, a quarter of a mile against such a current as there was that night?

A. Yes, sir.

Q. But taking into consideration that the Henderson was backing on her for from thirty seconds to a minute, and that all those lines that you heard mentioned were broken, you think she would go then, how far against that current?

A. Well, I said about two ship's lengths.

Cross Examination.

Questions by Mr. GUTHRIE:

Captain Smith, in answer to Mr. Minor's question, you have said that you towed Barge 93 at different times?

A. I have towed Barge 93 once. I have towed 91 several times.

Q. How does Barge 93 steer, from your knowledge piloting up the river?

A. Barge 93 steers pretty good.

Witness excused.

CAPTAIN A. L. PEASE, a witness called by the libellant in rebuttal, being first duly sworn, testified as follows:

Direct Examination

Questions by Mr. ERSKINE WOOD:

Captain, I wish you would state what experience you have had on the Columbia and Willamette Rivers as a master and pilot, and especially in towing ships.

A. I have had about 25 years' experience as master, and pilot of passenger boats and towboats, and towing boats, and also piloting ocean going vessels.

Q. Is that on the Columbia River all that time?

A. Columbia and Willamette Rivers, yes.

Q. Been continuously engaged in that business during that length of time?

Q. Yes.

Mr. C. E. S. WOOD: Between Portland and Astoria?

A. Yes, sir.

Q. What currents are there in Bugby Hole and past Puget Island and Tenas Illihee Island when the water is at the end of the June freshet, and a nine foot tide which has gone to the stage of half ebb?

A. What currents?

Q. Yes. How does the current in the river go there, running down through Bugby Hole past Puget Island?

A. Well, it follows the main ship's channel as near as I can tell.

Q. In bringing vessels around the bend of Puget Island in Bugby Hole, have you ever had any difficulty caused by the current setting away from Puget

Island there, or drawing you towards Clifton Channel?

A. No.

Q. Is there any perceptible current that affects vessels and their tows down Clifton Channel?

A. I never noticed any.

Q. The current sets right down the range, does it, toward the Hunting Island range lights?

A. It apparently does, because it is no trouble to navigate a large heavy draft steamer down the ranges; it doesn't take very much steering; she will go down around the point above the oil works, and will gradually work around.

Q. Above what?

A. The old oil works. That is a point a little above Bugby Hole light, and she will gradually swing around and head down a little below the ranges and a little port helm will carry her on the ranges. And on the ranges it is no trouble to maintain them.

Q. Do you give her much port helm in rounding the bend?

A. Not over five or ten degrees.

Q. That is, when towing deep draft vessels?

A. No, in piloting steamships I was speaking of.

Q. Ocean going ships?

A. Yes, ocean going ships deeply loaded.

Q. Would the same practically apply to tows such as the Samson and her barges?

A. Well, I never handled any tows like the Samson and her barges.

Q. In your opinion, though, as a water man of 25 years' experience, what would you think about it?

A. Well, we never had any difficulty in towing ships down that way, alongside. They tow good.

Q. Captain, which would be the most affected by the currents, flat bottomed barges or deep ships?

A. I would imagine deep ships, for they draw anywhere from 23 to 27 feet of water.

Q. Do you know whether this part of the river has been used as an anchorage ground, and if you do know, tell of it.

A. A good many years ago, I used to be on the towboats as master of towboats, and before the lights were established in Cathlamet Bay, we used to anchor the ships in Bugby Hole, because we didn't consider it safe to go below there and anchor, because sometimes the wind came up pretty strong, and the boat was likely to be smashed up, and you would have to get away from the ship; for safety we usually anchored in Bugby Hole.

Q. This part of the river between Puget Island and Bugby Hole and Hunt's Mill Point was customary anchorage ground?

A. Yes, we used to anchor there before we had lights and things in the bay.

Q. Did the ships ever experience any difficulty there caused by dragging their anchors?

A. Never heard of it.

Q. Have you heard the testimony relative to a tow and her tug being lashed together at a slight angle?

A. I heard the testimony as given today here.

Q. That is what I mean.

A. Yes.

Q. What is the custom on the river?

A. Well, I—it is cusomary to lash the towboat alongside at a slight angle, because the tow is managed easier and can be steered better in that way.

Q. What I want to know is, particularly, Captain, whether that is the universal custom on the river in towing ships?

A. Yes, I think it is.

Q. What practical effect would that have on the side lights as they would appear to a vessel approaching ahead?

A. I don't think it would have any.

Q. If the Henderson and the oil barge were proceeding at a rate of about three miles an hour and the water was at the end of the June freshet, nine foot tide half ebb, and the Henderson had been backing for from 30 seconds to a minute prior to the collision, and all the lines lashing the Henderson to the oil barge were parted by the force of the collision, and from that time on the oil barge was without any power of her own, how far, in your opinion, would she drift against that current?

A. Not to exceed 500 feet.

Q. It is undisputed that the oil barge was anchored about 150 or 200 feet off the Oregon shore near Hunt's Mill Point. Everybody admits that. Captain Jordan thinks that the collision occurred on

the Puget Island side about 800 feet off Puget Island shore, and between Grove Slough and the next slough below it; in short, he thinks the collision occurred off Ostervolt's seining ground, between these two sloughs, about 800 feet off the Puget Island shore. In your opinion, could the oil barge 93, under the circumstances I have described of backing and parting her lines, have drifted against the current over to the point where she lay at anchor?

A. No, sir.

Cross Examination.

Questions by Mr. MINOR:

Captain Pease, you are a member of the same Union of which Captain Sullivan is?

A. I am not a member of any Union.

Q. I don't know whether you call it a Union or not.

A. I don't call it a Union, no, sir.

Q. What do you call it?

A. I call it a profession. I have a license.

Q. You have an association, or something of that kind.

A. We have an association of pilots, yes, sir.

Q. And you belong to that?

A. I pilot ships on the river, in connection with these other pilots.

Q. I say, you belong to that association?

A. There is no association, only we are men together that pilot ships on the river.

Q. Captain Pease, in order that we may not misunderstand each other, it is in evidence here that Captain Sullivan is not employed directly by the Oil Barge 93, but that he was sent out by the Columbia River Pilots' Association.

A. Columbia River Pilots.

Q. Columbia River Pilots?

A. Yes, sir.

Q. Which association was employed by Barge 93. Now, you belong to that association?

A. I belong to the Columbia River Pilots.

Q. I say, you belong to the same association.

A. I belong to the Columbia River Pilots.

Q. Now, how do you get your employment—directly from the ship, or do you get employment through the association to which you belong?

A. I get my employment direct from the ship.

Q. In other words, if a ship wants you to pilot it up the river, they make application directly to you?

A. If he wants me, yes.

Q. And don't make application to your association?

A. No, sir.

Q. Now, Captain Sullivan seemingly was employed in a different way from what you are, from the testimony as I gather it. Do you know anything about the Standard Oil Company having an agreement with the Columbia River Pilots to pilot its oil barges up the river and down the river?

A. Yes.

- Q. They have such an agreement, have they?
- A. We pilot their vessels, yes.
- Q. They have such an agreement, have they?
- A. We pilot up and down the river for them.
- Q. Do it without an agreement, or with an agreement?
- A. No agreement, no, sir.
- Q. Then how do you happen to be employed?
- A. I suppose on account of our service on the river.
- Q. Who does the message come to?
- A. Well, it comes to whoever is in Astoria, that wants a pilot to take him. When a vessel comes in and is ready to go, they call for a pilot, and we do their work.
- Q. Whom do they call upon?
- A. They call upon any one. The Standard Oil Company can call upon me, or upon Captain Sullivan, or can call Captain Snow, or anybody they want to.
- Q. Captain, your association has an organization, hasn't it?
- A. No.
- Q. No organization at all. And so the Standard Oil Company doesn't employ your association, but employs each pilot separately?
- A. It employs a Columbia River Pilot, yes.
- Q. But don't employ the association at all?
- A. Not the association, no.
- Q. In answer to a question asked you by Captain Edwards, you said that you belonged to what is

called the Columbia River Pilots. Now, what do you mean by that—you belong to what is called the Columbia River Pilots?

A. Well, I am a Columbia River Pilot.

Q. Do you know what he meant when he asked you whether you belonged to what is called the Columbia River Pilots?

A. I suppose I am one of the Columbia River Pilots.

Q. You haven't any association or organization at all? Is that what I understand?

A. Well, in what way do you mean?

Q. Why, in any way. I say, you haven't any association or organization at all?

A. We are a body of men that pilot ships on the river.

Q. But you haven't any association or organization at all?

A. It is just simply the Columbia River pilots.

Q. Do you have officers?

A. No, sir.

Q. Do you have a president and secretary?

A. No president, no.

Q. Have a secretary?

A. Well, I sign as secretary and treasurer.

Q. You are secretary and treasurer and your—what the Columbia River Pilots earn on the river is divided up among the pilots; is it not?

A. Yes, sir.

Q. Through the secretary and treasurer?

A. Yes, sir.

Q. Not according to the work they do, but just according to that membership?

A. Divided up amongst those men, yes.

Q. In other words, you all divide equally?

A. Yes—not exactly equally.

Q. You divide with certain pro rata in regard to the amount they do?

A. Yes, sir.

Q. In other words, if you bring a boat up the river from Astoria, and the boat pays so much for the pilotage, you don't get that money. It goes to this concern of which you are the secretary and treasurer, and you get a certain part of it?

A. Yes, sir.

Q. That is what I wanted to get at. Now, Captain Church and Captain Jordan and Captain Cope-land don't belong to that, do they?

A. They are not with us—not Columbia River pilots that I know of.

Q. They don't belong to that same association?

A. The Columbia River Pilots? No, they are not a Columbia River Pilot.

Q. In other words, you don't divide with them?

A. No, sir.

Q. But you divide with Sullivan and with Smith, the man just on the stand?

A. Yes.

Q. Did you ever tow rock barges?

A. No, sir.

Q. The evidence is, Captain, that these barges are flat bottom boats, something like these little models you see there, with spoon bow, you understand. The evidence also is these barges run from 142 to 152 feet in length. They are carried in a kind of wedge tow, you understand; you have seen them; you have seen how they tow?

A. Yes, sir.

Q. Now, in your judgment, would the Samson be easier to steer without that tow or with that tow?

A. Would be easier to steer without the tow.

Q. Now, in your judgment, would that kind of tow be easier to steer, or harder to steer than the ordinary ocean steamer?

A. I don't think it would.

Q. Don't think it would what?

A. I don't think it would be harder to steer than the ordinary deep draft ocean steamer.

Q. Now, Captain, as a matter of fact, wouldn't there be a tendency with these barges with flat bottom to slip on the water, as it were?

A. No, sir, they won't slip any when down in eight or nine feet of water.

Q. Were they down eight or nine feet in the water?

A. I suppose they were. I don't know. They was only three feet out of the water, so must have been pretty well in the water.

Q. You know how much in the water, do you?

A. No, I don't know. I never paid any particular

attention.

Q. You know about how much?

A. All I know is what I heard here.

Q. Now, this tow, these barges, Captain, are about 38 feet wide; 37 or 38 feet wide, each, and they are fastened together so that they come together at the stern of the middle barge and the port and starboard side set out at an angle from the middle barge. Would that fact make that tow more difficult or easier to steer?

A. Well, I don't know—you mean the side barges set out at a little angle?

Q. Set out at a little angle, and the whole bow of the flotilla is pretty near 150 feet wide; 120 feet wide, anyway. And of course the Samson is only about 25 feet wide. Now, would that fact make these barges more difficult to steer than an ordinary ocean steamer?

A. I don't think so.

Q. You say that Bugby Hole is a place where they used to be many of these ocean going ships anchored from time to time?

A. Yes, sir.

Q. And the object of anchoring them there, as I understand, was because it was a place protected from the wind.

A. Protected place.

Q. That was the reason?

A. We didn't like to go down below, because we couldn't get around to Astoria. If we anchored

around Brookfield, we might get into trouble.

Q. The reason is, it was protected from the wind and a good anchorage place.

A. Good anchorage place and well protected.

Q. I understand, that in your judgment, you don't think that Oil Barge 93—you have towed that, have you?

A. No, sir.

Q. You have piloted it?

A. No, sir.

Q. You never piloted that barge?

A. No, sir.

Q. You don't know it, do you?

A. I know it.

Q. I understand you to say you don't think Oil Barge No. 93 would drift more than 500 feet against an ebb tide when she was going three miles an hour and cut loose from her towboat?

A. Without any propelling power?

Q. I say, without any propelling power?

A. No, sir, I don't think she would.

Q. Don't think would drift more than 500 feet?

A. No, sir.

Q. I wish you would give me some reason for your judgment in that respect.

A. Well, any barge towing against the current, a heavy barge, wouldn't surely go very far after you stopped the propelling power.

Q. Well, a good many of these captains who have had experience on the river say that—and some of

them who have towed these boats—

A. (Interrupting) Well, that is their opinion. It ain't mine. I have my own opinion.

Q. Wait a moment until I get through. Wait a moment. If you want to ask the questions and answer them too—I understand some of these parties who testified say, that if towing a barge of that kind, and they expect to stop at Portsmouth, they would stop, practically, when they got to the bridge, and some times even then they had to back in the water to make a landing. About how far is it from that bridge to Portsmouth?

A. I don't know.

Q. You go by there frequently, don't you?

A. Yes, sir.

Q. And you don't know how far it is?

A. No, sir.

Q. And you couldn't guess the distance?

A. No, sir, and I wouldn't stop a tow there at the bridge, if I was going to land there.

Q. If you don't know the distance, why wouldn't you stop it?

A. Because it is too far away.

Q. I thought you didn't know the distance.

A. I never measured, but I judge distances.

Q. That is what I want to get at.

A. I can't tell the feet and inches.

Q. I don't want the feet. I want your best judgment.

A. Well, I don't know.

Q. I just want your best judgment, Captain?

A. I don't know, sir.

Q. You don't know, but you wouldn't undertake to stop your speed at that point?

A. No, sir.

Q. Captain, you are a member of the Port of Portland Commission, are you?

A. Yes, sir.

Q. And Captain Shaver is also a member of the same commission?

A. Yes, sir.

Q. So you are associated together in public office?

A. Once a month.

Q. I say, you are associated together in public office?

A. Well, we are members of the Port of Portland, yes, sir.

Q. Shaver was elected by the rest of the Commission, was he?

A. I guess he was.

Q. Don't you know?

A. I don't remember. I think he was.

Q. You and he are very friendly?

A. Not any more than any other man in the business.

Q. I want to ask you a few questions, Captain, for the purpose of—Mr. Wood, it may not seem proper cross examination, but it is; this man is brought here as an expert, and I think it is proper on that ground. Captain, if you were coming up the river towing such

a vessel, piloting such a vessel as Oil Barge 93, which you have seen, and should meet the Samson with her tugs, seeing her lights, all of her lights, when you were either at the lower end of Puget Island, or at a point about a quarter of a mile below the lower end of Puget Island, the Samson just at that time rounding what is commonly known as the upper point of Puget Island opposite Bugby Hole—you understand—and you gave the Samson a signal to pass to port, one whistle, and she answered that, and you continued—you gave that signal when you were about half a mile and she answered that promptly, what would you do?

Mr. C. E. S. WOOD: Objected to as not proper cross examination, and not tending to call out the experience of the witness, but to get his expert opinion on a matter not directly examined upon.

Mr. MINOR: I will take his testimony.

Q. What would you do?

A. The Henderson and the oil barge blew one whistle to the Samson, and that whistle was answered by one whistle?

Q. Yes.

A. I would proceed.

Q. Would you change your course at all?

A. I would possibly port my helm a little.

Q. When you gave the first whistle?

A. No, not necessarily when I gave the first whistle.

Q. I say, what would you do?

A. I would keep on my course.

Q. If you proceeded for a minute and a half to two minutes after that, and as far as you could judge by the lights there was no change in the Samson's course, what would you do then?

A. I would port my helm a little.

Q. Would you give any other signal?

A. No, sir.

Mr. C. E. S. WOOD: Same objection throughout this matter.

Q. If at that time, Captain, you were not more than 400 or 500 feet—didn't think you were more than 400 or 500 feet from the Samson would you do anything besides port your helm?

A. No, sir.

Q. Would you put it hard aport?

A. No, sir.

Q. Wouldn't put it hard aport?

A. No, sir.

Q. Even though the two vessels were looking into each other's eyes, and weren't more than 400 or 500 feet apart?

A. No, sir, I would just simply keep on my course.

Q. Just simply keep on your course?

A. Yes, sir.

Q. And would you do anything else after that?

A. No, sir.

Q. Just keep your course without changing?

A. Yes, sir.

Q. You wouldn't blow any other whistles?

A. No, sir.

Q. Or change your course at all?

A. No, sir.

Q. Nor put your helm hard aport?

A. No, sir.

Q. Now, suppose you had been on the Samson, and when you were about half a mile away from the Henderson and her tow, on receiving this signal to pass to port, what would you do?

A. I would port my helm.

Q. You would answer the signal?

A. I would answer the signal.

Q. What answer would you give?

A. Answer with one whistle.

Q. Then you would port your helm, would you?

A. Yes, sir.

Q. Put it hard aport?

A. Not necessarily.

Q. What would you do?

A. Just simply proceed on my course.

Q. Just port you helm a little, would you?

A. Port enough to clear her.

Q. Enough to clear her. Suppose after you had ported enough, as you thought, to clear and get within four to six hundred feet from the Henderson, and could still see her lights, and she seemingly was bearing on the same course, what would you do?

A. Keep the same as I said before.

Q. Keep on the same course?

A. Yes, sir.

Q. Suppose at that time she blew a second whis-

tle, what would you do?

A. Why, I would answer it if necessary.

Q. Would you make any change in your course then?

A. Not necessarily.

Q. What would you do?

A. I wouldn't do anything.

Q. You would just keep on the same course?

A. Yes; if you ask me why, I will tell you.

Q. Wouldn't change your course at all?

A. I would just keep a little port helm.

Q. Just a little port helm?

A. I would consider, if I was on the proper side of the channel, it wasn't necessary for me to change my course.

Q. Whether you thought the proper side of the channel or not, would it make any difference?

A. It would, of course; if he blew one whistle, and I was on the right-hand side of the channel, he would have room on the other side. It is his duty to keep his course and keep out of the way.

Q. Suppose you were at a point, we will say, where the channel is over 2500 feet wide—I don't know exactly—over 2500 feet wide. And the Henderson and her tow at that time were at least 600 or 800 feet from the Oregon shore, and you could still see both her lights, what would you do?

A. I wouldn't do anything.

Q. Still continue your course?

A. Yes, sir.

Q. Wouldn't put your helm hard aport?

A. No, sir.

Q. Wouldn't blow any danger signal?

A. No, sir.

Q. Now, you can explain if you want to. I have no objection.

A. Because the law says, when signals are given and answered correctly, it is not necessary to blow the danger signal. The signals were given and answered correctly, therefore, what was the reason for blowing the danger signal. Now, that is my answer to the question.

Q. What about if you thought a collision was imminent, notwithstanding the signals were given and answered correctly, what would you do then?

A. I wouldn't think if the signals were given and answered correctly, there would be any necessity for a collision with a channel 2500 feet wide. If a man in coming up the river blows one whistle and a man coming down answers with one whistle, where is the necessity of a collision?

Q. None at all that I can see.

A. That is my idea.

Q. If, notwithstanding that fact, you should get so close together that you are still looking into each other's eyes, as it were, and are only from 400 to 500 feet apart—some of the witnesses said 200 feet apart, you would begin to realize there was danger of a collision.

A. You might.

Q. What would you do?

A. If I was right, I would maintain my course, for if the other fellow is going to run over me, let him run.

Q. You would maintain your course, if in the right, whether you could avoid a collision or not?

A. If the channel was 2500 feet wide, and I am on the right-hand side of the channel, and he has room on the other side, I don't see that I have to give way any more.

Q. Let's see this. Let's don't misunderstand each other. If you thought you were in the right, and you were on, as you say, the right-hand side of the channel, that is your side of the channel, after giving the signal and still you thought there was danger of a collision, you would maintain your course? Even if you thought the collision were going to take place?

A. Yes, if I was on the right side of the channel, 2500 feet wide.

Q. You wouldn't do anything else to avoid a collision?

A. I wouldn't blow the danger whistle.

Q. Would you do anything.

A. I would port my helm, as I said, before in this case.

Q. Would you put it hard aport then?

A. No, I don't think it would be necessary.

Q. Don't think it would be necessary?

A. No.

Q. Would you stop or back, or do anything of that

kind?

A. Of course I would stop.

Q. Would you back?

A. I would back, yes.

Q. You would do those things?

A. Yes, I would do those things.

Q. And you think you would put your helm more aport, but not hard aport?

A. I think if I was in the right, and on the right-hand side of the channel, and the other fellow approached me, it would be his duty to keep out of the way.

Q. What I want to know, is what you would do, if you thought he was in the wrong, and wasn't going to keep out of the way, what would you do in either case. Being on either vessel. I want to know, as it were, the etiquette of the road.

A. I gave it to you as near as I could.

Q. The etiquette of the road would be, you would keep on your own course, if you thought you were in the right?

A. If I were in the right, yes.

Redirect Examination

Questions by Mr. C. E. S. WOOD:

I move to strike out the examination on the ground it is not proper cross examination, and without waiving that right, I will ask you, Captain: In your answer to these last interrogatories about passing, have you assumed that, there being 2500 feet of channel,

and the vessels having answered each other, they would clear each other as they met? You assume that?

A. Yes.

Q. So when you say you wouldn't hard aport, etc., you have assumed there would be no necessity for it?

A. That is what I said.

Q. You don't mean to be understood you wouldn't do everything to avoid a collision, when you saw a collision was coming?

A. I don't mean particularly to say I wouldn't do anything, but I intimated, of course, if I was on the right-hand side of the channel, and I would blow him one whistle, and there was plenty of room on the other side, I would take it for granted that the other man would keep clear of me.

Q. I understand that you expect there would be no collision?

A. Yes.

Q. But now, my point is, if for any reason, whenever it became apparent to your mind that a collision was imminent, would you do everything you could to avoid it?

A. I would do what I could to prevent a collision, yes, to come right down to it.

Q. Then your view of it, under the circumstances given by Mr. Minor, would be to stop, back and throw your helm aport?

A. Do all I could to prevent a collision.

Cross Examination.

Questions by Mr. GUTHRIE:

Captain, one other question along the same line Colonel Wood has just interrogated you on. I understand the question put to you by Mr. Minor, was if you had answered the signal whistle, whether or not you would have done those things. Now, as a matter of expert navigation, Captain, if the danger seemed imminent, the collision seemed imminent, wouldn't you answer the second whistle in that way, by responding by a second blast, where the second blast had been given you?

A. Well, of course, I consider when the signals are given and answered correctly, there is no necessity for a second signal.

Q. What I mean is this: When there has been a second signal given, would it be answered by you if you thought at that time danger was imminent?

A. I don't know if it would.

Q. Wouldn't you give the danger signal if the collision seemed imminent, when you got the passing signal from the other boat?

A. Of course, if we got that close together we might. Of course I don't know. I don't think in this case that the danger signal was necessary.

Q. When you are piloting vessels up the river, have you ever piloted Barge 93?

A. No, sir.

Q. Barge 91?

A. No, sir.

Q. You are not familiar with their steering gear?

A. No.

Q. In taking vessels down the river, through that region near Bugby Hole, and passing Puget Island Point opposite Bugby Hole, supposing, Captain, that there were conditions about like this, which is, in a general way, the testimony of Captain Jordan: That the steamer Samson, drawing about 15 feet or 14 feet, coming down the river with a spike tow of three rock barges, about 3,000 tons of rock, keeping 400 to 800 feet off the outside of Puget Island, and that she came around on a hard aport helm for a period of time, I understand the testimony to be five or six minutes, but suppose it were only as much as two or three minutes, and whether hard aport helm, that port helm which Captain Jordan said would be most effective, in your opinion, what would be her course?

A. I don't know anything about the Samson or her handling—handling of tows, therefore don't think I would be competent.

Q. You don't think you could tell what that vessel would do in five or six minutes?

A. No, sir.

Q. Isn't it true that in that period of time, such a helm would have the effect of turning very far to port?

A. Possibly. It depends on the tow and the boat and how quick she steers, and how well she handles.

Q. Are you familiar with the currents as they

drift down through that part of the channel or the ranges?

A. Well, as to handling steam vessels, ocean going vessels, yes.

Q. In the event that a collision occurred practically opposite Grove Slough or the larger slough, or a little further down between that and the next slough, about 800 feet off Puget Island and the barges were cut loose there, in what direction do you think they would then go?

A. I suppose they would drift down the ship's channel. I don't know.

Q. You are not very familiar with the currents in there as to these matters?

A. No, not as to towboats and lighter vessels.

Witness excused.

Mr. ERSKINE WOOD: It is hereby stipulated by and between the attorneys for the libellant, claimant and respondent, that J. C. Rhofe, if produced and sworn in this case, would testify that the starboard anchor on Oil Barge 93, at the time of the collision, weighed 7,000 pounds, and the port anchor 6300 pounds, and that the chains of each of said anchors were made of iron 2 1/8 inches in diameter, and that the flukes were fourteen feet long, one foot and eight inches wide at the widest part.

I also wish to introduce part of the Rules of Navigation, as found on Page 14 of the Rules of the edition of July 25, 1911: "Barges or canal boats towed alongside a steam vessel, if on the starboard side of said

steam vessel, shall display a white light on her own starboard bow; and if on the port side of said steam vessel, shall display a white light on her own port bow; and if there is more than one barge or canal boat alongside, the white lights shall be displayed from the out-board side of the outside barge or canal boat; Provided, that car floats of 200 feet or over in length, shall have a white light at each outboard corner of said floats."

Mr. GUTHRIE: In behalf of the Standard Oil Company, incorporated under the laws of the State of California, respondent in personam, we move for dismissal of the supplemental libel filed against said respondent for the reason that in the testimony offered, there has appeared no evidence whatsoever of negligence on the part of the Standard Oil Company. It is the contention of the Standard Oil Company aforesaid, that its position with respect to the tow was that of a bailee for hire and that it was bound to give to the Henderson only ordinary care, and that in the absence of testimony and evidence proving negligence on the part of the bailee, the loss of the tow boat must not be ascribed to any fault on the part of this respondent.

Whereupon proceedings herein were adjourned sine die.

Portland, Oregon, Wednesday, May 21, 1913, 10 A. M.

J. H. JOHNSTON, a witness called on behalf of the libellant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. ERSKINE WOOD:

Mr. Johnston, what experience have you had as a builder of boats? How long have you engaged in that business, approximately?

A. Oh, something like forty-three or four years. Something like that, as near as I remember.

Q. At what places?

A. Halifax, Nova Scotia, Sidney, Cape Britain.

Q. Is that in Nova Scotia too?

A. Yes, sir.

Q. Where else?

A. Rainier, Oregon; Portland, Oregon.

Q. How many years approximately were you engaged in that business on the Willamette and Columbia Rivers?

A. Thirty-four, I guess. Came here in the spring of '79.

Q. You have practically then spent your life as a builder of boats and marine engines?

A. Yes, and in connection with marine engines.

Q. Can you give a rough idea of the number of boats you have built?

A. Something like about 115.

Q. Were they both river and sea-going—

A. Yes.

Q. —or just river?

A. River and sea-going both.

Q. You might state, if you can, some of the boats

you have built on the river here.

A. I might have brought a list, I suppose.

A. Oh, no, I don't need it as exact as that, but just some of them.

A. Well, I built the Hustler, a stern wheeler.

Q. Who was that for?

A. That was for Ham, Nicken Company; the Montesano for the Shoal Water Bay Transportation Company, a stern wheeler. The Telephone for Captain Scott; I forget what the company is.

Q. Which Telephone was that?

A. The second.

Q. Did you have anything to do with the Bailey Gatzert.

A. I designed the present Bailey Gatzert.

Q. Didn't build her though?

A. No.

Q. Done any work for Mr. Kern?

A. Yes, sir.

Q. Daniel Kern?

A. I have done some little work for him, not a great deal.

Q. What have you done?

A. Oh, I built a stern wheeler, the Hercules and five ocean barges; some rock scows. It was for the Hale & Kern Company.

Q. Can you give any more?

A. Yes, I built the G. W. Shaver, the Sarah Dixon, the F. N. Henderson, the Eva.

Q. The M. F. Henderson, wasn't it?

A. Yes, probably. I forgot their names. The Tacoma.

Q. Did you build the Flyer?

A. Yes, I built the Flyer for Captain Scott.

Q. Is that the one that operates on Puget Sound?

A. Yes. I can't think; quite a number of others.

Q. Well, that gives an idea of what you have done.

A. I can't remember them all.

Q. Passing to the marine engineer feature of it. Are you a licensed marine engineer?

A. Yes.

Q. How long have you held a license?

A. About 30 years, I believe; yes, something like 30 years. I wouldn't be positive but it is 30 or 31, I forget which.

Q. In addition to building the wood work of boats, hulls, houses, etc., what have you had to do with their machinery?

A. Well, I have designed quite a little machinery, engines, triple expansion, compound and stern wheel.

Q. You have designed the engines that have gone into a good number of these boats you have built?

A. Well, quite a number of them, yes.

Q. Did I understand you to say you had built the M. F. Henderson? Did you name that?

A. Yes.

Mr. C. E. S. WOOD: Before you leave that point, just to see whether I am right or not, did Mr. Johnston build the Hercules for the Kern Company?

Mr. ERSKINE WOOD: He mentioned that.

Q. What kind of a boat was the Hercules in comparison with the M. F. Henderson in general type?

A. I forget the dimensions of the Hercules, but she is smaller; not quite as large a boat, I don't believe. Not as much capacity, I don't believe, quite.

Q. Who did you build the M. F. Henderson for?

A. Shaver Transportation Company.

Q. Was that the boat that was wrecked in 1911?

A. Yes.

Q. By a collision with the Samson?

A. Yes.

Q. I will ask you to state approximately what, in your opinion, it would cost to replace the M. F. Henderson in 1911.

Mr. MINOR: I want to object to that as incompetent.

A. About \$51,000.00.

Q. \$51,000.00.

A. Yes.

Q. Do you know how old the Henderson was in 1911?

A. Let's see. I built her in 1901, I believe. She would be about ten years, or something like that.

Q. About what did you estimate the depreciation on her in a ten year period?

Mr. MINOR: I object to that also as incompetent.

A. About something over seven thousand dollars.

Q. What would you consider the value of the Henderson in 1911, as she stood then?

Mr. MINOR: I object to that also as incompetent. Witness seemingly don't testify that he examined her in 1911, or knew her condition at that time.

Q. Did you know the condition of the Henderson in 1911? Know anything about how she had been kept up?

A. Well, I had been aboard of her right along up to that date, in fact all their boats; most all the boats along the river.

Q. Did you have anything to do with keeping her up in condition, or doing work on her?

A. No, nothing, not a thing.

Q. But you had been aboard of her frequently and knew her condition?

A. Yes, I couldn't state the exact date, but I had been aboard of her almost up to the time of the collision.

Q. Now, state then what you considered her value was in July, 1911.

Mr. MINOR: Objected to as incompetent because the witness does not testify he made an examination of her or knew her condition.

Q. Were you acquainted with her condition?

A. Not to say thoroughly. Not to say a thorough examination of her condition.

Q. Well, how much would you say you were acquainted with her condition?

A. I have been down in the hold, but not to say giving her a thorough examination.

Q. From the examination which you made of her,

being aboard of her, and going down in her hold, were you familiar with the general condition of the boat?

A. Well, fairly well.

Q. Then you may state what you consider her value was at that date.

Mr. MINOR: I insist upon the objection. Witness is not shown to be competent to testify as to the condition of the boat in 1911; made no examination of her sufficient to ascertain what her condition was.

Q. Go ahead, Mr. Johnson?

A. What was the question?

Q. What do you consider her value was in 1911? In July.

A. In the vicinity of \$44,000.00.

Mr. MINOR: I move to strike out the answer as not responsive to the question and as incompetent.

Q. Mr. Johnson, did you make any thorough examination of the hull of the Henderson, after this time?

A. I did.

Q. Make a thorough inspection?

A. Yes, I did.

Q. When was that?

A. That was after—I couldn't state the date positive, impossible, but after she had been enclosed, and lying at their yard on the other side of the river here. I don't know what you would call it—whether—it is a bone yard, where they dock all their old boats, the Shaver Transportation Co.

Q. Did you make an examination for the purpose

of determining her depreciation at that time?

A. Yes, sir.

Q. I hand you an estimate, an itemized estimate, and ask you whether you prepared it?

A. Yes, I did.

Q. What does that estimate purport to show?

A. The valuation and depreciation.

Q. When did you make it? Well, it is dated here, I see.

A. I couldn't just remember the date.

Mr. C. E. S. WOOD: It is just a matter of convenience.

Mr. ERSKINE WOOD: We offer this in evidence.

Mr. GUTHRIE: This just purports to be a memorandum? This is not intended as evidence of damage in itself?

Mr. C. E. S. WOOD: It is only put in a convenient form; it is what his testimony would be. He will repeat all this by word of mouth.

Mr. GUTHRIE: No objection to it for what it purports to show there, but there is nothing there to show what he purports to be the damage done the Henderson. That is no estimate of the value of the Henderson as she lay in the boneyard.

Mr. C. E. S. WOOD: That is the estimate before the collision.

Q. This is a memorandum you prepared, and if I questioned you on each item, you would testify as here written down and signed by you?

A. Yes, certainly.

Mr. MINOR: I object to it because it doesn't appear from the witness' testimony that he had any opportunity to make any examination of the several items which are mentioned in this, and set out on this paper, except the hull, which I understand was all he saw after the accident. As far as these other items are concerned, I think the witness is incompetent because he doesn't show he had any opportunity to examine, or did make any examination of them. This is February 10, 1913. We object to it because it appears from the paper itself that the estimate was made February 10, 1913, which, I believe, was after the boat was repaired.

Mr. ERSKINE WOOD: I am not sure that you exactly understand the purport of this estimate. You remember he built the Henderson; this estimate shows his estimate of the cost of a new boat similar to the Henderson, less the amount of depreciation that would occur in ten years.

Mr. MINOR: Assuming that the Henderson was in that condition at the time the accident occurred.

Mr. ERSKINE WOOD: What condition?

Mr. MINOR: The condition she was in at the time he built her, and there is no evidence she was in that condition.

Mr. ERSKINE WOOD: At the time the accident occurred.

Mr. GUTHRIE: I don't think he shows the proper measure of damages in any event. It may be com-

petent for what it is worth in showing his ideas.

Q. Mr. Johnston, when you built the Henderson, was it salted?

A. Yes.

Q. From the visits that you say you made frequently to the Henderson, can you say whether or not she was well kept up as boats go, here on the river?

A. Not her alone, but all of his boats are well kept up.

Statement marked Libellant's Exhibit 25½.

Mr. ERSKINE WOOD: I offer this in evidence. Marked Libellant's Exhibit 25½.

"Portland, Oregon, Feb. 10, 1913.

Estimated cost of new boat similar to stern wheel tow boat M. F. Henderson also showing depreciation at age of ten years. Dimensions 158.7 x 31 x 7.5. Gross tons 534. Built at Portland, Oregon, 1901.

	Cost	Depreciation.	
Cost Hull	\$ 8000.00	40%	\$3200.00
" House	7500.00	8%	600.00
" Painting	1041.00	80%	832.00
Hog chains, r u d d e r stocks, cavels, cleats, chalks, etc.	1500.00	2%	30.00
1 fire box boiler 72"x26'..	6500.00	15%	975.00
2 engines 18x24	9400.00	5%	470.00
Cost, steam and exhaust pipe	550.00	10%	55.00

Pumps, piping and fittings	3746.00	15%	561.90
Steam steering gear.....	700.00	10%	70.00
Installation	3100.00		
Oil burning plant	2687.00	5%	134.35
Electric light plant	1145.00)		
Boiler cleaner.....	425.00)	15%	80.92
Three capstans	205.00	20%	41.00
Towing engine	850.00	5%	42.50
1 Donkey boiler	350.00	10%	35.00
1 Ballast tank	250.00	2%	5.00
Log towing equipment & U. S. Government equipment	1490.00	20%	298.00
18 fire buckets	9.00)		
1 20-ft. metallic life boat..	197.20)		
3 fire axes	6.00)		
4 fire extinguishers	50.00)		
4 water barrels	6.00)	20%	92.32
250 feet wire hose	110.00)		
4 fire hose nozzels	3.40)		
2 skiffs	50.00)		
20 life preservers	20.00)		
Furniture of cabins, rooms, galley, captain's room, pilot house, etc.....	932.00	20%	186.40
Inspector & watchman....	765.00		7709.39
	Balance		43888.21
	51597.60		51597.60

Value of Henderson at time of collision, \$43,888.21

J. H. Johnston,

Designer, Builder and Marine Engineer.

Q. Mr. Johnston, in carrying on your business as a ship builder here in Portland, what ship yards have you owned and operated?

A. One at the foot of—now I can't name the streets there, Mill Street I guess, owned by the Smith Estate; then the foot of Meade Street, and Hawthorne Avenue, east side, and Rainier.

Q. Rainier, Oregon?

A. Yes, sir.

Questions by C. E. S. WOOD:

Do you remember what it cost to build the Henderson?

A. I don't remember but then my books will show it, I believe.

Q. I just wondered whether you remembered approximately.

A. No, I don't remember approximately. It cost forty—it seems to me, I wouldn't be positive now—this is only an approximation, like forty something thousand if I remember right, but my books will show.

Q. Has the cost of building boats been increasing or decreasing?

A. Oh, yes, increasing.

Q. In what ratio, would you say?

A. I would say 25% almost; probably not quite as much; depends on the class of the boats, and the con-

dition they are put in.

Q. Are you acquainted in a general way with the care that the Shaver people, as a company, give to their boats?

A. Yes, I am well acquainted with the care. There was no neglect at all, they took good care of them.

Q. Now, from your knowledge as an expert boat-builder, just in a general way; boats taken care of as they take care of theirs, what would you estimate the percentage of depreciation in ten years?

Mr. GUTHRIE: It seems to me there should be a foundation to show specially that he knows that this boat was in that condition.

Mr. C. E. S. WOOD: He is an expert. I am only showing the percentage of depreciation of boats taken care of as they took care of their boats.

Mr. MINOR: I object to that as incompetent.

A. Well, some parts of the boats depreciate much greater than others. Now, I would have to give you the different ratios, you see.

Q. You will have to answer the question your own way, of course. What I was trying to get at—

A. Yes, I would say the hull so much, the cabin so much. Very little depreciation on the cabin.

Q. Very well, put it your own way.

A. The hull, I should judge about 40%. The cabin very little, probably 5%, and of course my list there will show.

Q. I am talking now independent of the list, in a general way.

A. And the machinery probably $2\frac{1}{2}\%$ to 5%; some parts more than the others.

Q. Now, can't you kind of lump them all together and take the boat as a whole, and say what the average depreciation would be?

A. Well, not very well. It might be—it wouldn't be 20% in that time.

Q. How long have houses lasted on the river here, of such boats as the Henderson?

Mr. MINOR: I object to that as incompetent.

Q. How long?

A. Thirty five years, I have known some; some cabins and houses—well, cabins on three different hulls.

Q. To be put on three different hulls?

A. Yes, three different hulls.

Q. And how long do hulls last if well salted?

Mr. MINOR: Object to that also as incompetent.

A. Why, if they are properly salted, why they will last—I have known one without any work at all on it 12 years.

Q. Now, you said you salted the hull of the Henderson when you built her, but you didn't state whether you salted her well or thoroughly.

A. Yes, thoroughly salted. I thought I said that.

A. Well, I didn't catch it. You keep yourself in a general way familiar with the boats on the river and their condition, do you?

A. Fairly well. I am designing one now; and I take cards off the engines, indicating the engines. I

am around a boat considerable.

Q. And in this way you had kept in touch with the Henderson? And with other Shaver boats?

A. Yes, fairly, its oil plant and the other engine work.

Cross Examination.

Questions by Mr. MINOR:

Mr. Johnston, you say you built the Hercules and the Henderson?

A. Yes, sir.

Q. And you think the Hercules was not quite as large as the Henderson?

A. I don't remember the dimensions, but she is not as elaborate a boat this way. The Henderson had a full cabin fore and aft, a passenger boat, and the Hercules has a very inferior cabin. Just arranged for towing; in fact the Hercules cabin was built the greater part, if I remember right, with lumber that came off the Gamecock.

Q. Now, you didn't build the Hercules originally, did you? You just repaired her?

A. The Hercules?

Q. Yes, the Hercules.

A. Yes, sir, originally. New hull built.

Q. You built the Hercules and the Gamecock did you originally?

A. No, I never built the Gamecock—you mean the Staghound.

Q. The Staghound, probably. The Hercules was

the Staghound—was built as the Staghound?

A. That may be.

Q. You didn't build the Staghound?

A. No.

Q. When you built the Hercules, you merely rebuilt the Staghound?

A. Not at all. The Hercules was new, complete; the hull; the hog posts, the chains, part were used on the Staghound, not all the chains. They were too old. The shaft and engines that were on the Staghound, but they was changed, down shorter, if I remember.

Q. Do your books show the cost of building both the Hercules and the Henderson?

A. No.

Q. Show the cost of building the Henderson?

A. Yes, the Henderson.

Q. But not the Hercules?

A. Not the Hercules.

Q. How does it happen it don't show the cost of building the Hercules?

A. Well, the Hercules was built by the day.

Q. Built by the day?

A. Yes, I believe I have some of the accounts of the Hercules, but not to say full.

Q. Now, I wish you would produce your books showing the cost of the Henderson.

A. Well, I can do that. That is the hull and cabin?

Q. Well, the cost of whatever you have. You said you built her.

A. Yes.

Q. I want to see the cost of her.

A. Yes, sir.

Q. What did you build of the Henderson, the whole thing?

A. Just the hull and cabin.

Q. Just the hull and cabin?

A. Yes, didn't build the machinery. Everything but the machinery.

Q. Well, in your estimate here, you have given an estimate of all of her machinery, haven't you?

A. Yes.

Q. Where did you get that?

A. I got the dimensions off the boat.

Q. You mean to say you took the dimensions of the machinery off the boat itself?

A. At the time she was built.

Q. At the time she was built?

A. Yes, I have kept a record, and I believe I have a record of her engines too, and all the boats that I build.

Q. Now, I would like to have those.

A. I am not so sure about the record of the engine, but I believe I have.

Q. Taking up these matters, one after another:—

A. Some of my books were burned at the time of the fire over there, and in that way I don't have a record of all, but I have a record of the Henderson Hull and cabin, I am pretty sure—know I have.

Q. Did you examine the floor timbers of the Hen-

derson when you made this examination?

A. Yes, I did.

Q. What was their condition?

A. There were some of them soft?

Q. Any soft?

A. Yes, sir.

Q. Any rotten?

A. Yes, rotten. When I say soft, that means rotten.

Q. How many of them were in that condition?

A. There were quite a number of them. I didn't count the number.

Q. Where they are soft in what portion of the boat do you find them soft?

A. Find them at what we call the water line, in the inside of the boat. That is there is so much water—let me explain please. A boat has so much dead rise, and there is so much water generally lays in the bottom there; between that line and the dry there is liable to be a rot there; not in all the frames but in some of them—floor timbers, I should say, not frames.

Q. Where that would occur most would be under the boiler, wouldn't it?

A. Not always under the boiler.

Q. Where was it on the Henderson?

A. Well, under the boiler and several other places along.

Q. It was under the boiler in the Henderson?

A. Yes, and several other places.

Q. Several other places?

A. Several other places.

Q. What was the fact as to those timbers being so badly rotten that they would have to be renewed in a short time anyway?

A. They are not, we will say, rotten in a cluster. There was one here and another along further you know; in different parts of the boat, so that the boat would have been—well she would have been suitable to run for a number—for a few years, just in the condition she was.

Q. Isn't it a fact that there were so many of these rotten timbers, it would have been necessary to have renewed them in a year anyway?

A. No, sir, not a year.

Q. It would have been necessary to renew them in two years?

A. No, sir, would run nicely for more than two years.

Q. Well, how many years?

A. She would run three or four.

Q. Three or four?

A. Yes, sir.

Q. What would it have cost to have renewed those timbers?

A. Well, I never made—I did make an estimate too, but I don't know that I remember just now. Let me think a minute. Oh, thirty-three hundred, something like that, would put her in pretty good shape; that is at the end of three years, which would be—ten

—thirteen years, we will say.

Q. You don't think anything would be necessary for three years?

A. No, because I have examined boats and hulls; boats that were—in fact you would hardly see how they would stay together, and yet they were running all right; ten times I might say, ten times as bad, the condition she was in.

Q. How much depreciation is usually allowed for a boat built as the Henderson was, per year?

A. Well, I don't know of any usual depreciation. It depends on the condition of the boat, the class of lumber that she was built with; you can build boats—I have seen boats built of lumber right here in Portland that in three years they were rotten; in three years then in seven and nine had to be repaired, but they were constructed of stained lumber that had been fired, probably and stained, and the life was gone when it was put in the boat. I could mention several boats of that class.

Q. What kind of lumber was this boat built of?

A. Built of first class lumber, yellow fir, not too aged, either. It wasn't, to say, dead timber.

Q. Now, Mr. Johnston, you say that to build the hull of that boat new in 1911, would cost \$8,000?

A. That is the hull.

Q. Yes. That is right, is it?

A. Yes.

Q. And to have built the house new in 1911, would have cost \$7500?

A. Yes.

Q. And how was the painting—you say the painting on the house, or on the boat would have cost \$1041?

A. Yes, and I will make this statement—that is a little low for painting.

Q. Now, when you made an estimate of the depreciation of the hull, and placed it at \$3200., did you take into consideration the rotten condition of the old timbers?

A. Yes, I did.

Q. You did?

A. Yes.

Q. Was this hull in such shape that it could have been repaired when you saw it after the accident?

A. After the accident?

Q. Yes.

A. Yes, sir.

Q. Could it have been repaired after the accident so as to have been as good it was at the time the accident occurred?

A. I don't see why it couldn't.

Q. What would it have cost to have repaired this hull after the accident, so as to put it in as good condition as it was before the accident occurred?

A. That is the hull. You mean the hull now, without the cabin?

Q. I am talking about the hull.

A. Yes. Well, thirty three or four hundred dollars.

Q. Thirty three to thirty four hundred dollars?

A. No; let me see. I make a mistake there. It wouldn't have required that much. No, it wouldn't have required that much.

Q. How much would it have required?

A. Probably \$2500; something like that.

Q. \$2500. then, spent on the hull would have made the hull as good as it was before the accident?

A. Yes.

Q. Was there any house on that boat when you saw her after the accident?

A. Yes, they built some cover over her, laying at the dock there.

Mr. C. E. S. WOOD: Mr. Minor, I think, means a regular house.

Mr. MINOR: He has put down the cost of the hull, cost of the house. I am asking his items. I say was there any house on the boat at the time you saw her after the accident?

A. Yes, they had built a temporary house as a machine shop over there. That is all the house there was on when I seen her, when I examined her.

Q. Did you take into consideration that at all?

A. No, that was no cabin at all. I took the cabin as that was built.

Q. When you say the cabin, is that the same as the house?

A. No, the house they have on her now is not the cabin at all.

Q. I want to get at your figures.

A. I understand.

Q. You say the house. I want to know what you mean by the house. I am not trying to mislead you. I am taking your own terms.

A. There I mean a cabin, full cabin.

Q. You mean a full cabin?

A. Yes, full cabin.

Q. And that was all gone when you examined it?

A. Certainly.

Q. When did you see that cabin before the accident? How long before?

A. Before the accident? Oh, I couldn't state the date, but probably—I believe I was aboard the boat probably a month, or less than that before the accident. I remember being aboard the boat; in fact, aboard all their boats.

Q. What were you doing on that boat a month before the accident?

A. Walking across her. I have a habit of going back and looking at the engines and examining boats.

Q. Did you make any examination of the house at that time?

A. No, not particularly, but I know the condition it was in without much examination.

Q. Well, at that time, was the house in good condition?

A. Fairly good condition.

Q. Now, it would cost in 1911, as I understand, \$7500. to put up a new house—put a new house on

the boat?

A. Yes.

Q. And you think the house was within eight per cent in 1911 of being as valuable as a new house?

A. Just about. They don't depreciate, the house don't.

Q. But from the condition you saw it in—

A. Yes.

Q. You think it had only depreciated eight per cent?

A. Yes.

Q. Now, here is painting. This charge you put here is for new painting, isn't it?

A. That is for painting.

Q. That is for painting new house?

A. Yes.

Q. Is it not?

A. Yes, as I said.

Q. What condition was the painting on the house in when you saw it before the accident?

A. The painting on the house, I couldn't just very well state the condition, but I know from other boats that painting depreciates very rapidly. They generally have to be renewed every year or so.

Q. The painting has to be renewed every year?

A. Pretty much every year, or every two years, or something like that; but on some boats—but I know the Shaver Transportation company, they renew pretty often.

Q. How long had it been since that painting had

been renewed?

A. Well, I couldn't just say.

Q. Did you renew it?

A. Couldn't say.

Q. Did you renew it?

A. No, I didn't.

Q. You don't know how old the painting was?

A. No.

Q. You couldn't say whether it was one, two or three years old?

A. No, I couldn't say. I could say this—that the inside of the cabin was probably more than three years old. They don't paint them very often, the inside, and I would judge that the cabin hadn't been painted inside in three years.

Q. How about the outside of the cabin?

A. Oh, the outside, I believe, had been painted recent.

Q. How recently?

A. I couldn't state just the dates.

Q. Well, within one year, or within two years?

A. I couldn't state.

Q. Do you think it had been repainted within two years?

A. I believe, yes.

Q. What was the condition of the painting?

A. Now, this is only a supposition.

Q. What was the condition of the painting?

A. Oh, I couldn't state. I couldn't state.

Q. Here you have got "hog chains, rudder stocks,

cavels, cleats, chalks, etc," all grouped together, at \$1500., have you?

A. Yes.

Q. What were the hog chains worth alone? What do they cost?

A. Let me see. Probably three—four hundred, something like that, hog chains alone. Now, I am just guessing at these, you know.

Q. Oh, you don't know what that is?

A. Well, approximately about that, something like that, close. I had that segregated and figured it out, probably, in my list; I threw it away, and just put in the full item, but I believe that was between three and four hundred for chains alone.

Q. For all the hog chains?

A. Yes, for the chains alone.

Q. How many hog chains were there?

A. Oh, dear me, I couldn't remember, and it would take some little time to count them. There was a number of them. I can make a list and count them, I guess, for you. I think I can, if you will allow me.

Q. Well, I am willing for you to count them.

A. Did I understand you want every separate piece, or the main chains, or what?

Q. I want to know how many hog chains there were—you class as hog chains?

A. There are two systems, the small and main ones. Four main chains, and the side chain, if you want me to count all the pieces, and there is the wheel chain. I can count every separate piece, if you wish

them that way.

Q. If you can count them up, I wish you would do it.

A. Oh, about fifteen, something like that, for main chains.

Q. Fifteen main hog chains?

A. No, for the main chains, and some small little pieces connected with them; bridles off down here (indicating) that I didn't count, little bridles.

Q. Were there any of these hog chains on the boat when you saw it, after the accident?

A. They had changed them.

Q. They had changed them?

A. Yes, changed them.

Q. Do you know whether any were on the boat when she was raised and brought to Portland?

A. I don't know anything about it. I know what was on her. This estimate covers the chains that would be on a new boat similar to her, but I don't know what was on her when they brought her to Portland.

Q. Now, you have made an estimate here depreciation on hog chains, two per cent?

A. Well, they don't depreciate.

Q. Well, you don't know whether any of those hog chains were on the boat when she was raised, or not?

A. I don't know anything about it.

Q. If there were hog chains on the boat when she was raised, could they have been repaired?

A. If they were, could they be repaired?

Q. Yes.

A. Yes, certainly, they could.

Q. What would be the expense of repairing hog chains?

A. If they weren't broken or parted—it would be any easy matter to have welded them, and as far as kinks were concerned they could be easily straightened out with very little expense, very little.

Q. I understand now, Mr. Johnston, that there were hog chains on the boat when she was raised and brought to Portland. Indeed the report which I have, says there was a complete set of hog chains.

A. Well, probably there were, but that—I don't know anything about that.

Q. If there was a complete set of hog chains, how much would it have cost to have repaired those?

A. If complete set of hog chains? They might have been broken badly, you see; that is something I don't know anything about. Now, if you will state how many breaks were in those chains, I can pretty well tell you what it would cost to repair them.

Q. I don't know whether they were broken or not, sir.

A. If there were no breaks in them, the cost would be insignificant.

Q. Insignificant?

A. Yes, I will tell you. The cost would come in in handling. That would be all, pretty much, the handling; might have been bent a little, but they are

easily straightened.

Q. If there were hog chains on the boat, your estimate here would have to be reduced to that extent, would it not?

A. I don't understand you.

Q. If there were hog chains on the boat, your estimate, I say, would have to be reduced to that extent, would it not? In other words, that much salvage would have to be allowed.

A. Oh, I don't figure for salvage there at all. I figure simply for a boat about that age, ten years of age, depreciation and value. I am not figuring there for salvage at all.

Q. New rudder stocks, what are they worth?

A. They are worth considerable more. If I remember right now, they were four inch stocks. Oh, they might be worth over \$400. Something over four hundred, the stocks and tillers.

Q. Now, were there any stocks or tillers on the boat when you saw her?

A. Oh, I can't say.

Q. You can say whether there was or not when you made this examination?

A. No, I can't say at all.

Q. Well, if there were stocks and tillers on the boat, you didn't examine to see what their condition was?

A. Oh, no, I know their condition. There would be no depreciation much on them.

Q. You didn't see those and you don't know what

their condition was?

A. No.

Q. Did you look for them?

A. No.

Q. Now, cavels—did you notice to see whether any cavels were on the hull when you examined it?

A. No, I never looked for cavels at all.

Q. Do you know whether there were, or not?

A. I know they were on when the boat was built.

Q. Do you know whether they were on at the time of the accident or before?

A. I do not.

Q. And you don't know whether—you don't know what their condition was?

A. I am taking the condition of the cavels of a new boat.

Q. How rapidly do cavels depreciate?

A. What say?

Q. How rapidly do they depreciate?

A. They don't depreciate but very little.

Q. How much?

A. Oh, I don't know. In fact, the cavels don't depreciate but very little, nothing at all, practically.

Q. What are cavels worth?

A. They are worth five cents a pound, used to be, and sometimes more, just depends on the rate of the—

Q. What are the cavels on the Henderson worth?

A. I am trying to figure out the pounds in my mind now. Oh, must have been worth \$400. or over;

over \$400.

Q. How many cavels do you allow in this estimate?

A. It seems to me there are about—there are—cavels and chocks too—

Q. I am talking about cavels.

A. About ten. It seems to me about ten.

Q. You allowed for ten, did you?

A. I am not very positive about that. You see it is quite awhile since I made that estimate, quite awhile.

Q. And cleats—how many cleats did you allow for?

A. Oh, I forgot. I ascertained the number of cleats and chocks from Captain Shaver, and made an estimate of the cost and depreciation after I had the number. Now, that was the way I got it, and I don't remember now. I don't remember the exact number.

Q. Well, how much are cavels and cleats worth apiece then?

A. Oh, \$10. apiece, I suppose.

Q. \$10. apiece for cavels and how much apiece for cleats?

A. Well, I don't remember.

Q. Now, Mr. Johnston, I want to see how you made this estimate. You understand. I don't know how I can find out, unless you can tell me. I know you didn't just throw it together.

A. No, I didn't. I figured it out carefully, and put down the items, and let the matter drop out of

my mind, and I would have to go over it all probably again.

Q. So you couldn't tell me?

A. I couldn't tell you right off.

Q. What cleats were worth, or what you figured them at, or what you figured cavels at?

A. I don't remember the number of cleats now. I know I got the number from Captain Shaver and figured them out.

Q. But you don't know how much you allowed for cleats.

A. No, I can't say how much I allowed.

Q. And the chocks—you got the number from Captain Shaver?

A. Yes, I got all those from Captain Shaver.

Q. And what did you put in the value of those each?

A. It would take me some time to go over it again probably, and arrive—I know that I segregated them all out and figured them out, and arrived at that amount. It seems to me it was like \$1500., if I remember right; that is, chains, rudder stocks, and everything. But take and itemize them out now, that would be almost impossible for me, without I take quite a little time and figure it out.

Q. Now, what is meant by the item "etc."?

A. Well, that is—that would be blocks—

Q. Do you know how much you allowed for the item "etc."?

A. I don't, because there are blocks and shives.

'Q. So you can't give me any information as to how you arrived at the figure fifteen hundred as the value of new hog chains, new rudder stocks, new chocks, new cleats, new cavels, etc?

A. I can, if you give me time to go over it, but it takes some time. It took me some days to work that out. I know what I should have done, I should have preserved my list that I figured from before I put in a lump figure. That is what I should have done.

Q. All of those matters—the information about all of those matters, you got from Captain Shaver?

A. Not all, no, no. The boiler, donkey boiler—

Q. I am not talking about the donkey boiler. I am speaking about the items I am asking you about, hog chains, rudder stocks, cleats, etc.

A. Not hog chains. I knew the rudder and hog chains. I didn't get them from Captain Shaver, but the number of cleats and chocks I did.

Q. When you were on the boat prior to the accident, did you look at any of those matters or articles, to see the condition of them?

A. Not particularly.

Q. You don't know what the condition was?

A. No, except that I know at that age these several items would depreciate about what I have got it there, as near as I could judge.

'Q. Now, here is the fire box, 72 x 26. Where did you get the information about that fire box?

A. I have a drawing of it.

Q. And you had that drawing of the original fire

box that you put in?

A. I believe I have. I have my drawing of it, the size of it, and all that.

Q. You didn't get that from Captain Shaver?

A. No, no.

Q. Do you know whether the fire box on the Henderson at the time of the accident was the same one which you put on?

A. I do not.

Q. You don't know what the dimensions of that fire box was?

A. I do not, but I suppose it was the same as the one that went aboard of her when I built her.

Q. When you made your examinations of her from time to time, by going aboard, you didn't look to see the condition of that fire box?

A. No, no.

Q. You don't know what the condition was?

A. No.

Q. You have put it in here as the value of a new fire box, of those dimensions?

A. Fire box boiler.

Q. Fire box boiler, I should say, of those dimensions?

A. Yes, sir.

Q. And you don't know whether that was on the boat at that time or not?

A. No.

Q. And you don't know the condition of it?

A. No.

Q. And you figured the depreciation on that fifteen per cent?

A. Yes.

Q. That is supposing that is the same one which was put on by you in 1901?

A. Yes.

Q. And you think that that only depreciates in that time fifteen per cent?

A. That is about it. I would state now that I know of boilers that have been on boats for 21 years, and the pressure was only reduced fifteen pounds,—160. That is 21 years.

Q. What is generally allowed as the life of a boiler?

A. I believe—I know of one 30 years in a boat.

Q. I know, but what is generally allowed as the life of a boiler?

A. I would say about 30—I don't know as any limit, but the steam is cut down, reduced down so much after while that it is below economy. In fact, it is too low to handle the boat, and they replace them with new boilers.

Q. Now, what is generally recognized by marine engineers as the life of one of those boilers?

A. Well, I would say about 30 years.

Q. 30 years?

A. Yes, it depends on the construction and the pressure that is carried a good deal. There is no two boilers alike, no two like. One might go down in 15 years so you would renew it for probably some

other cause. Might be for the pressure.

Q. Do you know what kind of a boiler was on this boat at the time of the accident?

A. Yes, fairly good boiler.

Q. Did you see it?

A. I have seen it.

Q. Do you know what was on it at the time of the accident?

A. Yes. I never examined the boiler or tested, anything like that.

Q. You don't know how much she had depreciated, from any examination you made?

A. I know just from judging that class of boilers. That is my judgement of the depreciation from that class of boilers, and the number of years in constant use.

Q. In making this estimate, did you ascertain how much steam that boiler was allowed to carry?

A. No. No, I didn't.

Q. You know how much she was allowed to carry when she was new?

A. Yes, I believe I do. She was allowed—now, I won't be positive, but I believe it was 165. I won't be positive about that.

Q. You don't know how much steam she was allowed to carry at that time?

A. No, I don't think she had been reduced at all.

Q. But you don't know anything about that?

A. No, I won't be positive, but I don't believe it was reduced, the pressure.

Q. How could you tell about whether reduced or not?

A. Because of the custom of boilers of that age.

Q. That is merely guess-work?

A. No, it ain't guess-work. It ain't. It is experience.

Q. Don't the manner in which the boiler has been used also have something to do with the length of life of the boiler?

A. I don't understand.

Q. The manner, I say, in which the boiler is treated or used.

A. Yes, certainly. A boiler can be abused in one trip.

Q. You don't know how that boiler had been treated, do you?

A. No, of course I don't. I am judging by the Government inspectors, pressure, and the tests and all that. They wouldn't allow it—if the boiler had been abused, they would reduce the pressure.

Q. You told me awhile ago, you didn't know whether they had reduced the pressure or not.

A. I say I am almost positive the pressure wasn't reduced. Almost positive, but not strictly positive.

Q. But if you did ascertain that from what source did you ascertain whether the pressure had been reduced or not?

A. I haven't ascertained from any source, but in a boiler of that age, I don't believe the pressure was reduced. I don't believe it, and I think you will find

my belief is right.

Q. Now, when you put that boiler, if it was the same boiler, on that boat, what kind of a burner was it?

A. Burner?

Q. Yes.

A. It is an oil burner.

Q. An oil burner when you put it in?

A. Oh, no, when it was in the new boat, it was a wood burner.

Q. What was it at the time of the accident?

A. An oil burner.

Q. Do you know?

A. That I know.

Q. Who changed it from wood burner to oil burner?

A. Shaver Transportation Company.

Q. You didn't do that?

A. No, I never do that on any of them. I merely got out permits. The permit for the Henderson was got out—I could tell you who got that out too.

Q. I thought you were going to tell me when that was gotten out.

A. Who got it out. Was gotten out by a man by the name of Mr. Phillips. I mostly get out permits for the oil burners for the greater part of the boats in the river here, but I believe for the Henderson, the permit for burning oil was gotten by Mr. Phillips.

Q. Does the fact that the boiler is an oil burner, have any effect on its life?

A. Not if properly bricked.

Q. Not if properly bricked.

A. If properly bricked.

Q. Did you ever make an examination of this after it was put in and changed to an oil burner, to discover whether or not it was properly bricked?

A. I have examined the Henderson's furnaces several times.

Q. For the purpose of ascertaining whether it was properly bricked or not?

A. No, not at all. Principally for information and the changes. They make changes once in awhile to new burners, and the like of that, but the bricking is never changed much—generally placed so in all boats.

Q. Now, the bricking remains the same after converted to an oil burner, as it was when a wood burner?

A. No bricking in a wood burner at all.

Q. The bricking was changed after it was made an oil burner?

A. Certainly.

Q. Did you put in that bricking?

A. No, sir.

Q. Did you see it put in?

A. I have seen it in.

Q. Don't know anything about its condition, do you?

A. Oh, yes, I looked. As much as any one would know by looking in the furnace doors and examining.

Q. You have an item here, two engines 18 x 84. Where did you get the data for that?

A. Where did I get it?

Q. Yes.

A. I figured it out, knowing the cost of different engines.

Q. Where did you get the data?

A. I didn't get that for the Captain Shaver.

Q. How did you know there were two engines on it?

A. How did I know?

Q. Yes, that is what I want to find out—the source of your information.

A. You mean when the boat was built?

A. No, I mean when the boat was sunk.

A. I don't know anything—I don't know whether the engines were on her when she was sunk or not.

Q. You don't know whether on or not?

A. No, I wasn't near her when she was sunk at all.

Q. Were there two engines on when built?

A. Certainly.

Q. What was the size of the engines when built?

A. 16 x 72,—let me see. I may be making a mistake on the dimensions. 84-84 stroke.

Q. 16 x 84?

A. Yes.

Q. Well, where did you get that data?

A. 18 x 84, I told you. Excuse me. I have so many steamboats in my head. Yes, 18 x 84, I believe.

Q. Where did you get that data?

A. I looked it up.

Q. I mean, how did you know that the Henderson had engines of that kind?

A. Now, let me see. I don't remember just how I got the dimensions, but it seems to me I looked them up somewhere.

Q. Anyway, wherever you got them, you got them from hearsay somewhere, didn't you?

A. No, I didn't. I generally remember most all the sizes of the engines on the boats, and I think that is the dimensions I put down for these engines.

Q. Well, I know you put them down, but I want to know how you know it.

A. I knew it by the engines that were put on the boat, like lots of other engines I could mention. I might be astray on some sizes, but I don't think I am on that.

Q. You mean the engines you originally put on the boat, do you?

A. Yes, sir.

Q. You put originally engines 18 x 84 on the boat?

A. Yes. Remember, I didn't put them engines on the boat, but I was there and helped to fasten them down and all that. When you say I put the engines on the boat, I didn't put them on the boat.

Q. I merely wanted to get, Mr. Johnston, the source of your information. I am not questioning your good faith. I merely want to get the source of your information.

A. Yes. Well, I don't have to have any informa-

tion. I knew that those engines went on the boat at the time she was built.

Q. And you didn't know whether on the boat at the time the accident took place, or not?

A. Well, I expect they were on the boat at the time the accident took place, or she wouldn't be towing.

Q. Why, couldn't she tow with any other kind of an engine?

A. She might. It is the same engines that were on the boat from the time she was built. I never knew of them being changed.

Q. Now, you say these engines—you put a depreciation upon these engines of how much?

A. I forget now.

Q. How much would they depreciate then?

A. I think it would be probably—might be five per cent, but they depreciate very little, the engines, very little.

Q. That also depends on the manner in which they are used?

A. Not altogether. The engineer is licensed by the Government, and he is supposed to take pretty good care of an engine. I know the Shaver Transportation Company have an engineer, one of their firm is an engineer, and they look after their engines pretty good.

Q. Did you ever examine these engines?

A. Yes, I been over them. I seen them when they had new rings put in the piston valve. They have

piston valves; they have to be renewed once, a new ring on, and she had to have new rings put in the valves, and I was looking at them then when they were being built.

Q. When was that?

A. I couldn't state the date, but a year or two ago. The rings wear out after awhile. The rings in the valves.

Q. Did you ever make such an examination of these engines, that you could say that you knew the condition of these engines at or about the time the accident occurred?

A. Not what I would say—I haven't made a thorough examination; that is, taken the engines apart, and examined every separate part. I haven't done that. That would be a thorough examination, but I never did that. I have seen them taken apart several times, parts and pieces of them, to overhaul, and see everything was working all right, but as far as I ever seen them, they were in good condition.

Q. I see you have an item here, cost steam and exhaust pipe. What do you mean by "cost"?

A. Just the cost of the steam and exhaust pipe.

Q. It isn't a separate item then?

A. No, the cost. It is probably not put down there in technical form. The cost of that pipe, steam and branch pipe, exhaust pipe. There is steam pipe that takes the live steam to the engines, and exhaust pipes that receives exhaust from the cylinder and takes it back in the stack.

Q. What was the size of those pipes?

A. I forget. As nearly as I could tell, I judge about eight inches, or something like that. I would judge, I am not positive about that.

Q. What is the size of the exhaust pipe?

A. That was the exhaust pipe I said, eight inches.

Q. What about the steam?

A. The steam probably would be between five and six, probably six—five and six.

Q. Where did you get the data from which you made an estimate of the value of steam—the cost of steam and exhaust pipe?

A. I took the length, the length of the pipe.

Q. Where did you get the length?

A. Well, the length of the boat from the boiler to the engine.

Q. And where did you get it? Did you measure it yourself?

A. No, but then I know pretty near the length.

Q. And how did you get the dimensions of the pipe?

A. I know that is about the size required for that class of boat.

Q. And where did you get the cost of it?

A. Well, I just figured up the cost.

Q. Installation—what do you mean by installation?

A. That is placing the machinery.

Q. Installing?

A. Yes, I guess it is right there.

Q. Where did you get that item?

A. Installing the machinery, I believe that I have a record of that. I think I have. I believe I can produce a record of that.

Q. Well, I would like to have the record.

A. Yes, I think I can. I think I have got the record of that installation when Mr. Morgan put in the machinery. He was the engineer at the time of placing that machinery.

Q. And you think these figures you give on that are what it actually cost?

A. No, I increased at the time; his figures for installing that machinery were low, and I added so much, I believe.

Q. You don't know what his figures were?

A. Yes, I think I can find them. I think I have them.

Q. I wish you would produce his figures.

A. I think I have them.

Q. Now, that is all labor, isn't it—what you call installation?

A. Labor, yes, pretty much labor. Well, there is—

Q. I see no depreciation on that, so I suppose all labor.

A. Yes, pretty much.

Q. I understood you to say you didn't install the machinery, but you fastened it down. Now, fastening it down has nothing to do with installing it—is that right? That is not a part of installing it?

A. Why, we simply bored the holes. That is about all we do, and chip for the—true it up, line it up, and like that. I will tell you. The engineer runs his lines, and I sent carpenters there to work the timber off to these lines and true it up. They then bore the holes for the engineer, and he puts in his bolts, and all that. That is hardly installing it. Then there is piping, you know, connecting the pipe up. That is installing too.

'Q. I wish you would give me your itemized statement of your figures from which you have reached this sum of \$3100 for installation?

A. Yes, sir.

Q. Oil burning plant—

A. I may be able to do that. I don't know whether I have those slips or not. I may, and I may not.

Q. Oil burning plant. Where did you get your figures for the oil burning plant?

A. Well, I believe I got them from Captain Shaver.

'Q. So you don't know anything about that from your own knowledge?

A. Yes, I do, for I have got out over fifty of these on the river here, and I generally find out what they cost to install.

Q. This is not the installing.

A. Well, I mean for to equip with oil burners.

Q. Now, can you tell me anything about what kind of an oil burning plant this was?

A. Yes, a pretty fair oil burning.

Q. They are not always of the same size, are they?

A. Oh, no, no.

Q. Do you know what the size of this one was?

A. I can tell you the size, yes. Let me see. It is a very expensive arrangement, I know, because some of the tanks are built with an angle in them like this (illustrating).

Q. You don't know anything about the size of this oil burning tank, do you?

A. No, I don't remember. Not right now, but I can get it, and get you a list. I have a list of them. I can furnish the sizes on them.

Q. I would like to have the list. I would like to have you show me where you get your evidence from.

A. I can do that. I have a blue print of the oil burning plant on the Henderson.

Q. Where did you get it?

A. I got it years ago when it was put in. I got it from Mr. Phillips, and he used to get from me, and we would exchange.

Q. Did you put in this oil burning plant?

A. No, Mr. Phillips, I told you previously.

Q. He put it in?

A. Yes, but I believe I gave the dimensions of the tank.

Q. I would like to have full data in regard to this oil burning plant, so I will be able to ascertain what its value is.

A. I believe I could give you blue prints; I can let

you have a blue print of the oil burning plant.

Q. How did you get the value of it?

A. Figured it from that.

Q. Figured it from that?

A. Yes.

Q. Can you tell me?

A. Not right off now.

Q. When you produce the data then, I wish you would also produce your figures from which you reached that sum.

A. I may be able to do it. I think I have some slips.

Q. You can't tell me when the oil burning plant was put in?

A. No, I don't know just the date, but the blue prints will show.

Q. Now, what is the depreciation upon the oil burning plant?

A. Very little. Very little. The only depreciation would be on the pumps, and that is very little; renewing a valve once in awhile. The pipes don't deteriorate or rust with oil.

Q. How much did you allow for that?

A. I don't remember. Not very much. Probably five per cent, or three.

Q. This report shows you allowed five per cent.

A. It is pretty hard for me to remember all those.

Q. Doesn't the depreciation of the oil burning plant depend also in the manner in which it is used?

A. Well, oil might lay in those tanks for a thou-

sand years, and I don't think it would rust or corrode. No use. The only part used is the burners, and they are renewed every little while. The burner, cheap, insignificant, the tips that go in the furnace, that don't amount to anything.

'Q. Don't cost anything?

A. Cost a little, but not much. Just simply a piece of pipe, and don't amount to much.

Q. Now, you don't know what the condition of that plant was, that oil burning plant, at the time the accident occurred, do you?

A. Well, no, only about—judging from any other oil burning plant boat. I never knew of one yet to be re-piped. Never knew of one. As I said before, the only thing I know is the valve and little oil pump that is working oil, and they don't wear out very often.

Q. Now, coming to the electric light plant—what do you know about that?

A. I don't know so much. Now, I got this—I got the items from Captain Shaver, the electric light plant, but I know about its use. It don't wear out so very fast either.

Q. But how did you get the cost of it?

A. I got that cost from Captain Shaver.

Q. So that part of this estimate is not your estimate at all.

A. That part of it there. There is some parts in it there—I am candid.

Q. I know that. I say, that is not your estimate

at all. That is his estimate.

A. That is his price, cost.

Q. That is his estimate, not yours?

A. Yes.

'Q. Now, boiler cleaner—where did you get that item?

A. I got that, the original cost.

Q. The original cost of the boiler cleaner that you put in?

A. No, I didn't put that in. That has been put in recently.

Q. Where did you get that information?

A. I got that from Captain Shaver, too.

Q. As far, then, as the boiler cleaner is concerned, that is hearsay?

A. No, it ain't hearsay, because I have seen that myself. I know it was in the boat. I have seen it myself.

Q. You have seen one there?

A. Yes.

Q. You don't know anything about its cost?

A. I got the cost from Captain Shaver. I put on the depreciation.

'Q. How much depreciation did you allow for that? Do you remember?

A. I forgot.

Q. You allowed fifteen per cent? Why did you allow that much?

A. Because they deteriorate a little faster than the oil plant would.

- Q. Do you know when—
A. Yes, I know the reason why.
Q. I didn't ask the reason why.
A. Excuse me, I thought you did.
Q. No, I don't care anything about the reason why?
A. I thought you did.
Q. Do you know when it was put in?
A. No, but I know it hasn't been put in but recently.
Q. The depreciation would depend on how long it had been in, wouldn't it?
A. Yes, certainly.
Q. So when you undertake to state what the depreciation was, you got the information as to how long it had been put in from some one else, didn't you?
A. Yes, I believe I did.
Q. So that is hearsay, too, is it?
A. Wasn't hearsay. I guess I have the exact date when it was put in, and think I could produce it.
Q. As far as you are concerned, it is all hearsay. You don't know when it was put in, only what you were told?
A. Some of those items I suppose, you might call them hearsay, in a way.
Q. Here are the capstans. How did you get the number of the capstans?
A. I got the number from Captain Shaver.
Q. Captain Shaver?
A. Yes.

Q. How did you get the cost of the capstans?

A. I think I have a book that gives the cost.

Q. How did you know the size of the capstans?

A. I think I have got the size.

Q. How did you get the size?

A. The size is given in books. I have a list that gives the size.

Q. You mean to say you have a list that gives the size of the capstans of the Henderson?

A. I think I have. I am sure I have.

Q. Where did you get that book?

A. Well, the old sailors keep a book. I have several. I think I have a Williams, and I have several of those books.

Q. I would like to have you produce that book?

A. I think I can.

Mr. ERSKINE WOOD: I think you should make a list, if you want us to produce it all. He won't remember everything you are asking for.

A. No, I assure you that. You had better put down a list.

Q. Now, Mr. Johnston, come to the cost of it. How did you get the cost of the capstans?

A. They are listed.

Q. Listed?

A. Yes.

Q. And do you know when those capstans were put on the boat?

A. There were some put in—I believe there were one put in later on, if I remember right now. I don't

believe they were all in when she was built, not at the time. I think there was one put on, if I remember right.

Q. Do you remember when that was put on?

A. Not just exactly.

Q. And do you know—how can you tell how much they would depreciate unless you know when they were put on?

A. Well, I could come at it as closely as any person could.

Q. Excepting some man who had examined it.

A. Well, I examined them. I seen them capstans, leaned against them and rested several times.

Q. You made no examination?

A. No examination. They are enclosed.

Q. So you made no examination?

A. No one could do that without taking them apart.

Q. That you never did?

A. No, no.

Q. Also the amount of depreciation on the capstans depends on how much used, doesn't it?

A. Certainly.

Q. But you don't know anything about that?

A. Yes, I have an idea about how much used.

Q. But you don't know, do you?

A. I know fairly well; used some times—not so very often, and then again—

Q. Can you tell me how much they used them?

A. No, nor no one else could.

Q. So I supposed. So your estimate of depreciation on these is largely guess-work?

A. Not altogether.

Q. Largely so, isn't it?

A. No, I don't admit it is guess-work.

Q. Where did you get your data in regard to towing engines?

A. In regard to the cost?

Q. Yes.

A. Well, I believe I got the cost of that from Captain Shaver, the original cost.

Q. He told you about that?

A. I designed the boiler that goes with that myself.

Q. I say, he told you the cost?

A. Well, naturally enough when the concern was built.

Q. Mr. Johnston, you can answer my question. I say, he told you what it cost, did he?

A. Why, he told me, I guess he did, but then I believed—

Q. That is the only information you have as to what it cost, isn't it?

A. Yes, yes, you might say so.

Q. In putting it in here, did you put in what he told you it cost?

A. No, no, not always, no.

Q. You added to that?

A. No, I cut down some items. I cut down several.

Q. Take that one item. Did you cut that down or add to it?

A. I don't think I did. I don't think I changed that at all.

Q. Put that in just as he gave it to you?

A. I think so. Added for several, and again other ones, I reduced.

Q. How long had that been used on the boat?

A. That was put in when the boat was built.

Q. You know that to be a fact?

A. No, I won't be positive about that.

Q. You didn't put it in?

A. No, no, I didn't put that in.

Q. Now, you allowed depreciation on that. That depends on how long it has been in there?

A. Yes, but that don't depreciate but very little. Any machinery like that don't depreciate very much; not as much as the boilers connected with it.

Q. Does that depreciate any more, or any less than the engines of the boat?

A. No, I wouldn't think so.

Q. More or less?

A. I wouldn't think a great deal more.

Q. Would it be more or less?

A. It might be a fraction more, but I don't think much, no.

Q. Now, donkey boiler. Where did you get that item?

A. That is the one I designed.

Q. Do you know whether that was on the boat

at the time the accident occurred?

A. It was on the boat the last time I was aboard of her.

Q. Where did you get the cost of that?

A. I believe I got the cost of that from James Monks. I believe I did now.

Q. So the cost of it is hearsay, is it?

A. It is easier to get the cost from him than to figure it out. I can figure out the cost myself, at, say, ten cents a pound.

Q. But you didn't do it, did you?

A. I don't think I did in that case but I know the cost is about right. I know that from my judgment, the cost is right.

Q. Now, did you put the cost of that in at what it actually cost when it was bought, or did you add that or take from that?

A. I believe I had to add—no, I didn't either. It is just as it cost.

Q. Just as it cost?

A. Yes.

Q. The depreciation on that. What did you figure that?

A. I forget now. I forget. That is pretty hard for me to remember all those things. After I went over the list, and figured them out, I threw it out of my mind.

Q. Does that depreciate more rapidly, or less rapidly than the boiler on the boat—the fire box boiler?

A. It ought to depreciate about the same.

Q. About the same?

A. About something the same.

Q. So that the amount of the depreciation on that ought to be just about the same as it is on the fire box boiler, ought it?

A. Let me see. One minute now. It seems to me that the donkey boiler—that donkey boiler was placed was placed on that boat some years after she was built, and the depreciation would probably be a little less than the fire box boiler. See if I ain't right there, if you please.

Q. How long after she was built?

A. I don't just remember now. I don't remember.

Q. Can you get me that data?

A. Yes, I can. Yes, sure. I think that would show a little less depreciation than the fire box boiler.

Q. Well, you have given it less, but I want the data, you know.

A. Yes.

Q. Now, ballast tank. Where did you get that item?

A. Ballast tank? Why, it is there on the boat for any one to see, sitting on the bow of the boat, was on the bow of the boat.

Q. You know what it cost?

A. I think—

Q. Do you know, I say. Do you know what it cost?

A. I don't know just now, not right now.

Q. Where did you get your information as to the cost of it?

A. I figured that cost up, I believe, the cost of that tank, the ballast tank.

Q. You have the size of it, do you?

A. Not right now. I can give you the dimensions. I have it on the plat.

Q. I would like you to bring that also.

A. I didn't bring—I could have brought them all, I guess.

Q. Do you know where you got the dimensions?

A. No, I can't say just now where I got the dimensions. I think I got them off a plan that I had. I think. I am not sure.

Q. Log towing equipment. Where did you get that item?

A. Why, I got—I have got an itemized—I got a list of those from Captain Shaver, of the different things, and I put the price on them myself.

Q. The different things which comprise that log towing equipment, you got that from Captain Shaver?

A. Yes, yes.

Q. So that is hearsay, too?

A. Well, if you put it that way, but before I got that equipment from him—

Q. You don't know it yourself?

A. (Continuing) I knew of some of it.

Q. Except what you got from Captain Shaver?

A. I knew of some of it. I knew of the main cable and the shive and the hangers and the hog posts, and

bents that support it, and several other things.

Q. How much were those parts you did know of worth?

A. I think I have a list of them.

Q. Produce that.

A. I don't know, but I believe.

Q. If you can't do it now, you can this afternoon.

A. I may be able to do it now. I guess that is it.

(Producing paper.)

Q. Are those your figures?

A. Yes, sir.

Q. In your handwriting?

A. Yes, my figures.

Q. How much of this do you know of yourself, and how much did you get from other people?

A. I got some, the items—I put down the figures. There is quite a number of them that I knew myself.

Q. Mark those that you knew of yourself.

A. Well, I told you that I got a list of these from Captain Shaver.

Q. Oh, you got a list from Captain Shaver?

A. Yes; not all of it, not all. Not all. These items I knew myself there marked with crosses.

Q. The items that you knew yourself. Read it, will you? Read the items that you knew yourself.

A. There is an iron safe, anchors and chains and cable and rope fenders and forge, towing block gear.

Q. How did you know of those yourself?

A. Because I knew they were on the boat.

Q. You saw them there?

A. Yes, the anchors and chains, I knew they were there. I seen them put—I sold Captain Shaver one of them, I believe.

Q. Here are three rope fenders. You put them down as worth \$4.00 apiece, did you?

A. Something like that.

Q. That is new?

A. No, they weren't new.

Q. I say, that is the price of them new, \$12 for three of them?

A. Yes, yes.

Q. Now, here you have got two anchors with chains, and a seven-eighths chain cable, \$125. How much chain was there?

A. There were—I forget the number of feet now. There were a hundred and some feet. I can't just think of the number now. It is quite a while, you know, since I—

Q. What is the size of the anchors?

A. The anchors were two hundred and something, one is, and I forget the weight of the other; two hundred and something pounds, and I can't just remember. There is one heavier than the other, you know.

Q. You had that information at the time you put the price on it?

A. Yes, certainly.

Q. I would like to have the information then that you had at the time you put the price on it. Where did you get the weight of those anchors?

A. I got the weight from Captain Shaver.

Q. And now the chain—

A. (Continuing) I sold him one of those anchors, and I think I can get that weight yet. I think the chains—

Q. But the weight of the other you got from Captain Shaver?

A. Yes, the weight of one of them.

Q. And the length of the chain, you got that from Captain Shaver?

A. Yes, sir.

Q. And that seven-eighths chain and cable, where did you get that? From Captain Shaver too?

A. The government inspectors furnished the length of chains and size and all that, and anchors. They give the size, and I could have got that from any person familiar with boats.

Q. How much do you figure the anchors per pound?

A. Six and seven cents, I think—something like that; six cents a pound, something like that.

Q. Six cents a pound?

A. Yes, something.

Q. How much did you figure the chains per foot?

A. I forget just now, but I figured that out myself, I know.

Q. You can't tell me how much you figured?

A. I can't remember just now. I will have to go look it up.

Q. The iron safe. Where did you get the price of that?

A. I got that from Captain Shaver.

Q. Captain Shaver?

A. Yes.

Q. You marked that item as one you knew something about?

A. Yes, I made a mistake there.

Q. You don't know about that?

A. No, that iron safe; but I brought that to his memory, you know. I asked him if there wasn't a safe on board the boat.

Q. That is all you know—just what he told you?

A. Yes, but there is other prices. Them prices I put on there myself, that towing block there—that price I put down.

Q. Wait a minute. I haven't got to that.

A. Excuse me.

Q. Here is one forge. Where did you get the information about the forge being there?

A. I knew there were a forge on the boat.

Q. You saw it?

A. Yes, when she was built.

Q. Do you know whether it was there at the time?

A. No, I don't know that, but he said it was aboard.

Q. Now, where did you get the value of that forge?

A. I believe I put a value on that myself. Yes, I did.

Q. Was that the size of the forge?

A. I forget now. I think I have one the same.

Q. How did you get your information in regard to the value of it?

A. I have one. I have a forge the same myself. That is a low price for it, too, as I know.

Q. Now, the only other items I find here is a tow block and gear. Now, what prices—what is the depreciation in that tow block and gear?

A. It is a tow block and band that is up on the towing mast, and hung by two rods from the top of the mast, and swings around. It is quite a large arrangement. There was shives in there, and all that.

Q. You knew that was on the boat, did you?

A. I certainly did. I saw it up there. All my men did.

Q. You saw it?

A. This list I give here is supposed to be a new boat, equipped as she was. This band was figured on that too, and there was a similar arrangement on the Henderson.

Q. And how did you get the figure for the price of that?

A. Why, I figured it up myself.

Q. Now, who put the prices on the rest of the stuff you have got on this list?

A. Well, Captain Shaver gave me the items, and some of the prices he gave me from his list,—from a list there.

Q. Did you put any price on yourself?

A. Yes, I did.

Q. What prices did you put on?

A. I put on those I marked.

Q. Those you didn't mark—did you put the prices on there?

A. Yes, some of those, but not all of them. I couldn't say just now.

Q. Well, which of those did you put the prices on?—

A. No, I didn't. I don't think I put on any others.

Q. You don't think you put prices on anything else?

A. No.

Q. The rest of them is what you got from Captain Shaver or somebody else?

A. Captain Shaver.

Q. On this statement you produce here, your figures seemingly foot up \$1188.15, to which you have added \$344.75. What is that for?

A. That is it on that (indicating).

Q. Just state then what it is. I don't know what it means.

A. You see it is lined across here (indicating).

Q. Summing up of the figures of the whole thing?

A. Exactly. Summing up the figures; that is all.

Q. How did you arrive at the amount of depreciation on this—this log towing equipment?

A. Oh, just like I arrive at anything else. You see those—there is a great part of this renewed right along; wears out, and it is renewed, and there is a lot of it practically new; some are extras; there is not a

great deal of depreciation on that; in fact, you couldn't handle a lot of that stuff, and there is the iron works that don't depreciate, dogs and chains and like of that, that don't depreciate much.

Q. You have made the amount of depreciation on that item twenty per cent?

A. Twenty per cent, yes; some wear out faster, some are ropes, Manila ropes. I thought that was about as near as I could come to it.

Q. How did you arrive at the figure twenty per cent depreciation?

A. Well, sum up some that would depreciate more, and take a mean between the lot; some that don't depreciate but very little; in fact, some don't depreciate hardly at all. That is chains don't.

Q. Now, you have got a lot of items here under the heading of U. S. Government equipment?

A. Yes.

Q. Where did you get those items, comprising U. S. Government equipment?

A. Those parts here I can figure out. I build those boats myself, and I know what I get, and I compared that with Captain Shaver, and it comes out about right. I think there was a reduction made.

Q. Now, fire buckets—eighteen fire buckets. Where did you get the price of them?

A. I got some of them from Captain Shaver.

Q. And metallic life-boat. You say you know the value of that?

A. Yes.

Q. You figured that out?

A. Yes, so much a foot.

Q. Fire axes. Where did you get the value of those?

A. I got that from Captain Shaver.

Q. Fire extinguishers? Where did you get the value of those?

A. I got them from Captain Shaver.

Q. Water barrels. Where did you get the price of those?

A. I got the price of them, but I know that the prices of those are right, water barrels, because I have bought them myself, and checked them. I checked those all over, the prices.

Q. Water hose. Where did you get the value of that?

A. I got the length of the hose from Captain Shaver, and the price, and went over it carefully.

Q. So you got all that, both the length and—

A. I got the items from Captain Shaver.

Q. (Continuing) Value from him, too.

A. Not always.

Q. The fire hose—about that?

A. The fire hose, no.

Q. You knew the value of that?

A. Yes, I knew the value of that.

Q. Here are fire hose nozzels. Where did you get that?

A. I got the number from him.

Q. And you knew the value of them?

- A. No, I didn't. He had a list of the price of those.
- Q. So you got that from him too?
- A. Yes, the price in this.
- Q. Two skiffs. Where did you get that?
- A. I know all about skiffs, and the prices of them myself; don't have to ask anybody about those.
- Q. You knew what they were worth?
- A. Yes, pretty near.
- Q. You knew the skiffs, did you?
- A. Yes, certainly.
- Q. Life preservers. Where did you get the value of them?
- A. I got the number from Captain Shaver.
- Q. Where did you get the prices?
- A. I knew the price myself.
- Q. Furniture of cabin, rooms, galley, captain's room, pilot-house, etc. Where did you get those items?
- A. That I put down myself. Them figures myself.
- Q. How did you get the amount of furniture?
- A. Well, I figured out that there was that much value in them. I got the amount of furniture from him. He itemized that out, told me what was in there.
- Q. You got the items from him?
- A. Yes, the items, yes.
- Q. And you got the items of the galley—of the furniture of the galley and captain's room and pilot house, and what is meant by "etc." there?

- A. Well, there are things that are not figured.
- Q. Those things you got from Captain Shaver?
- A. Yes, I did.
- Q. And the value you got from him too?
- A. No, not at all; no, not at all.
- Q. It depends on what kind of furniture it was, what the value was, don't it? ~~value~~
- A. He had a value, and I would change; sometimes change it. It was reduced several times, that I know of, but never increased.
- Q. Inspector and watchman. What does that mean?
- A. Inspector. It means inspecting the boat when she is under course of construction.
- Q. That is a matter of labor to be added to the cost of building a new boat?
- A. Yes, certainly.
- Q. And that item—where did you get that?
- A. I figured that out.
- Q. Figured that out yourself?
- A. Yes, sir, and also watchman. Let me see. No, the watchman, I didn't figure that, no.
- Q. Where did you get the value of that?
- A. I got the watchman from Captain Shaver.
- Q. How much of that is inspector, and how much of that is watchman?
- A. I think there is six hundred—let me see. I forget now. I forget now, I forget. I know there is more for inspection than there are for watchman. I know that.

Q. The depreciation on the furniture. How do you arrive at that figure?

A. Just like I did any of the rest of it.

Q. Did you know how old the furniture was?

A. Yes, I know some was put on the boat when she was launched.

Q. You don't know that it was the same furniture, do you?

A. No, I do not—I don't.

Q. And did you know anything about its condition?

A. No.

Q. The depreciation of furniture depends entirely on the manner in which it is used, doesn't it?

A. Certainly.

Q. You never looked at that furniture?

A. Yes, it wasn't used as a passenger boat. I just had—that is a matter of judgment—twenty per cent for that.

Q. It seems she was used as a passenger boat as well as a tow boat.

A. I don't think that she was ever used; that I remember of.

A. The evidence shows there were passengers on the boat at the time the collision occurred.

A. She was licensed as a passenger boat, but what I mean is this: She was never run between two points as a regular passenger boat, that I remember.

Q. She did carry passengers?

A. Oh, yes, because she was licensed for a pas-

senger boat. Had full cabins for passengers.

Q. You never examined the furniture?

A. No.

Q. The amount of depreciation is guess-work?

A. That part of it you might say—judgment as well. Put it pretty heavy, twenty per cent put for depreciation.

Q. Now, Mr. Johnston, if these engines were the same engines which you put in that boat, they had been in there for over ten years at the time of the collision?

A. Yes, sir.

Q. And you have allowed for depreciation five per cent.

A. Yes.

Q. Then those engines would last how long?

A. Indefinitely.

Q. Indefinitely.

A. Oh, I tell you after a number of years, say fifteen years, the cylinders may require to be bored out, and new rings and pistons put in. I have known them to require the like of that. The Lurline—you were not asking about the Lurline—I was just referring to another boat, how long she had run without any repair.

Q. So the life of an engine then, is unlimited?

A. Well, no, it ain't unlimited. There is a limit to an engine, but I don't know where to place it. I wouldn't know. The limit would come very quick if you built new boilers with extra pressure; the limit

would come quick. They won't last so long then, but that wasn't done in this case.

Mr. MINOR: Now, I move to strike out all the testimony of this witness regarding these items, insofar as same relates to the hog chains; insofar as the same relates to the rudder stocks; insofar as the same relates to the cavels; insofar as the same relates to the cleats; insofar as the same relates to the chocks; insofar as the same relates to the "etc." contained in the same item with the several items just mentioned; also the evidence regarding the fire box boiler; the evidence regarding the engines; the evidence regarding the steam and exhaust pipes; the evidence regarding the installation; the evidence regarding the oil burning plant; the evidence regarding the electric light plant; the evidence regarding the boiler cleaner; the evidence regarding the capstans; the evidence regarding the towing engine; the evidence regarding the donkey boiler; the evidence regarding the ballast tank; the evidence regarding the log towing equipment; the evidence regarding the fire buckets; the evidence regarding the hose, fire hose; the evidence regarding the furniture; upon the ground that the same is hearsay and is not competent.

Q. There are three other items, Captain, which I have overlooked and would like to ask you about them; two other items, not three. Pumps, piping and fittings. Where did you get that item?

A. I know about the pumps that are on the boat.

Q. What sort of pumps were they? What were

the size of them? What kind of pumps?

A. I couldn't remember the size of them now.

Q. Well, get the data regarding them?

A. Yes.

Q. Can you get that?

A. Certainly.

Q. Piping and fittings. Do you know about the piping and fittings?

A. I can get that for you.

Q. Get the data about that and bring it in. How did you reach the cost of that?

A. Just making an estimate of it, like I would of anything.

Q. Do you know how many pumps there were?

A. Yes, I couldn't say now. I think there was—

Q. But you did know, did you?

A. Oh, I did know, yes.

Q. At the time I made this estimate?

A. Yes, sure I did.

Q. You knew that of your own knowledge?

A. Yes, and I will get you an estimate of that.

Q. And you knew how much piping there was?

A. I may have a list of that, but I don't know as I have.

Q. And knew what the fittings were?

A. I don't know just the exact length for the piping, you know. That would be impossible, but I went over that pretty carefully.

Q. Where did you get your information?

A. From the length of the boat, position and size.

I have several boats—designs and plans of several of them that show the like, you know, show the distances and number of pumps.

Q. Have you that for the Henderson?

A. No, I don't think; I have a plan for her, but I believe quite a number of my plans were burned, but I believe I have the plan of the Henderson. I believe I have.

Q. Did you get this data from your plans?

A. Some of it, yes, some of it.

Q. I would like to have that brought in. Here is also an item of steam steering gear. Where did you get that?

A. Steam steering gear?

Q. Yes.

A. Well, I just made an estimate of steam steering gear. I am familiar with that; have designed some.

Q. Do you know whether the Henderson had a steam steering gear?

A. Yes, sure.

Q. You knew that of your own knowledge?

A. Yes, certainly.

Q. You knew what it cost, did you?

A. I figured the cost. I know the cost of several, and I figured up the rest as about the same.

Q. The cost of it depends on the character, doesn't it?

A. Well, they are all pretty much the same. They are pretty much the same. Of course there are some that work with water, but this was steam—it was

steam steering gear.

Mr. MINOR: I also move to strike out all the evidence of this witness on the ground that same is incompetent, and particularly on the ground that the witness testified that the vessel could have been repaired excepting the house and painting.

Mr. ERSKINE WOOD: I request at this time that you make a list of the data you want Mr. Johnston to produce; there have been so many requests made.

Mr. MINOR: I want him to produce all the data, Mr. Wood, that he has got, upon which he made his estimates.

Mr. C. E. S. WOOD: It is substantially this: That you want him to produce the data or his books from which he estimates the cost of the Henderson?

Mr. MINOR: Yes, I want him to bring the data from which he has made the estimates of the cost of the Henderson.

Mr. C. E. S. WOOD: Want him to bring blue print of the Henderson?

A. I have no blue print of the Henderson, but have a blue print of the oil plant.

Mr. C. E. S. WOOD: You bring your data showing whatever original costs you have—showing costs.

Whereupon proceedings herein were adjourned until 2 P. M.

Portland, Ore., Wednesday, May 21, 1913, 2 P. M.

J. H. JOHNSTON, resumes the stand.

Cross Examination continued.

Questions by Mr. MINOR:

Mr. Johnston, you were to produce certain data. Have you been able to get that?

A. I have got some of it (producing papers).

Mr. C. E. S. WOOD: Better state what it is, so as to get it in the record.

A. This is the tracing; not the blue print, but the original, the tracing of the oil plant for the M. F. Henderson.

Q. You made that yourself, did you?

A. Yes, sir.

Q. What other matters have you?

A. I have the plan of the engines of the M. F. Henderson. We have this upside down. It is immaterial, I suppose. Here is the bed plates; showing the bed plate. It belongs to the engine. (Producing another.) That is the donkey boiler we were speaking about.

Q. Did you prepare this tracing too?

A. Oh, yes, yes, certainly. These are the trucks under it. (Producing another.) This is the boiler.

Q. Have you any other plans?

A. I have some. No plans, but just data, I told you.

Q. What other data have you?

A. In regard to the installation. You remember you spoke of that, but that is out at the ranch, another book. I thought I had that, but I have taken it out

there to figure it out.

Q. Have you any other data from which you testified?

A. Yes. Well, I don't know as I used that in testifying. I didn't use that. I just simply—no, I didn't use that in testifying.

Q. Have you the figures from which you made up this estimate?

A. My figures? No, they are slips. The only slips that I kept are those that I have shown you.

Q. You have no data here then, from which you can tell me how many cavels there were?

A. Nothing except my list here I have.

Q. I don't think your list gave that.

A. I have a list like that.

Mr. ERSKINE WOOD: He means he has a duplicate copy of this.

Q. This don't say how many cavels.

A. No, probably they don't. That is like some of the other items. I didn't segregate them; just put them in.

Q. Have you no data from which you can tell me how many cleats there were?

A. No, only from memory, and then I am not positive about that.

Q. Or how many chocks there were?

A. I knew the chocks at the time this was figured out. I had them on slips, and made an estimate, and considered it low.

Mr. C. E. S. WOOD: I don't know how far you are

testing this witness' memory and accuracy, but we are going to put on Captain Shaver, and show these things were on the boat.

Mr. MINOR: And just the numbers of them all?

Mr. C. E. S. WOOD: Yes.

Q. The depreciation that you figured here, you figured upon the theory that the boat had been carefully handled and well cared for?

A. Certainly.

Q. But you don't know as a matter of fact of your own knowledge, how well she had been handled at all times, nor in what condition she was?

A. I have been in the hold several times.

Q. I know, but you don't know about that?

A. Well, I do know, for I have been in the hold, I say. That is the important part to examine, and I do know that she—not her alone, but all his boats.

Q. Mr. Johnston, you spoke of salting the boat when she was built,

A. Yes.

Q. Shouldn't boats of that character be salted more than once?

A. Yes.

Q. How often should she be salted?

A. About once in every two years, and wet down with a hose every six months.

Q. You don't know whether that was done or not?

A. I don't know. I wouldn't—I am not positive, but I believe it was.

Q. I understand. But you don't know anything

about it?

A. No, but I have had several talks with Captain Shaver in regard to that.

Q. No, I don't want you to tell me what Captain Shaver told you.

A. I ain't going to.

Q. But as a matter of fact, you don't know whether she was salted but the one time?

A. That is right, but I know she was salted one time. I know that the evidence of the salting was all right.

Q. How much do you think that hull was worth when you saw it after the accident?

A. After the accident?

Q. Yes.

A. The hull alone, the hull, I should judge, was worth about five thousand.

Q. Five thousand dollars?

A. Yes, that is the hull, remember.

Q. That is what I said.

A. I am not figuring on the—it requires a little time to study that over, because there is hog chains, rudder stocks, and all that iron work that I don't consider were damaged a particle, and I would require to figure that out. It takes some little time. It is a matter that I can't give you right off; it is impossible. If you give me a chance to study it over, I will tell you exactly; that is, as near as my judgment is concerned.

Q. Do you know whether the engines were in the hull when you saw her?

A. When I saw her?

Q. Yes.

A. No, the engines were out of the hull when I saw her.

Q. And the boiler was out of the hull at that time, too?

A. Yes.

Q. All these several items on this paper that you have there, were they out of the hull at that time?

A. When I seen it, out of the hull.

Q. Did you see any of these articles?

A. No, but they were on the new boat. I seen the new boat.

Q. But you didn't see the engines or the boilers?

A. I seen them on the new boat.

Q. You did?

A. Yes, I seen the engines on the new boat.

Mr. ERSKINE WOOD: I don't know, Mr. Minor, as you understand the old engines were put in the new boat.

Q. I know, but you only saw them after they were put in the new boat?

A. Beg pardon.

Q. You only saw them after they were put in the new boat?

A. Yes, that is right.

Q. When did you make this examination of the hull?

A. It must have been the day before—now, that date is not down here—yes—February 10th—it must

have been February 11, 1913. It must have been February 11th.

Q. 1913?

A. February 9th.

Q. 1913?

A. Yes.

Q. At that time the engines hadn't been put in the new Henderson, had they?

A. No.

Q. Where was the hull at that time?

A. Laying across at what they call—
Captain SHAVER: East Davis Street.

A. East Davis Street, yes.

Q. Had the hull been repaired at that time?

A. It had been chained up, I guess, were chains in it, hog chains, and there had been kind of a lower house built on it.

Q. Had the hole in the side been repaired with timbers?

A. I presume so.

Q. Don't you know?

A. I guess it was, or she wouldn't have floated.

Q. Don't you remember seeing that the hole had been repaired?

A. Well, she looked practically like a new boat when I seen her from the outside.

Q. You didn't go inside?

A. I did, down in the hold.

Q. Did she look like a new boat down in the hold, too?

A. No, but she surprised me, as far as decay was concerned, because I found so little. I will state that I have found boats in a much greater state of decay, advanced state of decay, I should say, six years old—in use six years—than I found the Henderson, and I understand that she had been out in the rain for quite a season after the collision, or wreck, whatever it is called.

Q. That was the first time you saw the hull of the Henderson, was it, after the accident?

A. No, I seen the hull, I believe, across the river on the ways. I was going up the other bank of the river, the east bank, and I believe I seen the hull on the ways.

Q. But that was the first time you went into it and made an examination?

A. Yes, that is right.

Mr. C. E. S. WOOD: You mean you saw her across the width of the river, you on one bank, and she on the other?

A. Exactly.

Q. How long before the accident was it when you saw the Henderson?

A. Must have been a month, I guess, as near as I can remember. I wouldn't be positive of these dates, you know. Might have been less.

Q. Can you tell what the market value of the Henderson was in this market, a month before the accident?

A. There is no market value of boats, that I ever

heard of.

Q. What could she have been sold for in your judgment, at that time, in that condition?

A. I wouldn't have any judgment on what she could have been sold for, for you can't sell a boat, unless you find a buyer for that special purpose, and a boat is never sold without a special purchaser, or seldom. Boats don't transfer, or are not transferred. Not transferrable property in a way. They are poor sales account.

Q. Now, is it a fact that the machinery and apparatus and fixings—and fittings, I should say—of a boat, depreciate in value by reason of something better being invented, or made of different design.

A. Excuse me, I would like to have that again.

Q. Is it a fact that the apparatus and fittings of a boat—understand?

A. Yes.

Q. Depreciate in value because after the boat is built, other fittings and apparatus are designed that are more suitable; therefore these become obsolete, as it were?

A. I understand. I will have to explain that a little. These people put the very best fittings on a boat that I know a boat to have, the very best class of valves. If you were to use—these valves don't go out of style. There is the Jenkins and the Lunkenheimer. They don't change. They don't depreciate much. They don't change. I myself have one for ten years. There is another class of valves which

these people don't use, which depreciate very fast. They can be renewed, re-grinding and all that. Yes, I knew these people used the very best.

Q. That is valves. But don't the engines change, and don't they improve the engines from time to time?

A. I have seen them try to improve on them here, but it was a step backwards. These engines are piston valves, and I would consider up-to-date today. They work by eccentric, which is positive, direct motion, and these same people have tried pocket valves from the east, and they have had rebuilt over here. These engines have never been touched, except as I said today,—new rings in the piston valves.

Q. So, in your judgment, none of this equipment of the boat, the fittings and equipment and apparatus of the boat, was obsolete, or had depreciated on that account?

A. Well, there might be some little items depreciate. That is something—some new-fangled arrangement such as gauge glasses, but it would be immaterial; some little new things invented and brought out once in awhile; but there is valves about a boat that require renewing after awhile. They will wear and will be renewed, with new valves, so they are better than that they put in. You can't run a boat with a leaky valve a minute.

Q. In your recollection, Mr. Johnston, since you have been building boats, there have been a great many changes in the engines used in boats, haven't there?

A. There have been very few changes in this class of boat, in the stern wheel; very few. Take propeller boats, where they get in triple expansion engines, and all that, there are little changes takes place there all along, in design, and like of that, and materials, new higher grade steel, and all that, but these engines are slow working engines, and the only great trouble they have is with the torque on the shaft. The torque on the shaft will sometimes twist a shaft off, if not up to proper size, which has happened to several boats on the river here. But I don't remember; in fact, I don't believe the Henderson ever has, but there are several boats had their shafts give out; but that, of course, don't cost so very much to renew.

Questions by Mr. GUTHRIE:

Q. Mr. Johnston, did you ever know a river boat of this type to run as long as 35 years with the same hull?

A. I have known a boat that run under severe conditions, I should say, for 35 years, but I could hardly state it was the same hull. It was repaired, but there is timber in her today that was in the original boat—that was in the Lurline, and she has been running over 35 years. She has been taken good care of, like these boats here. I will also state that I have built a boat here years ago, that there were never a dollar's worth of repair put on the hull for over ten and a half years that I know of, except a sash or two in the lower house: an accident had knocked them out, but as far as the hull was concerned, nothing done to it, simply

because the lumber was selected. And again I will state that I have known boats that were built, and in three years were ready to build again, just on account of material, class of lumber, no salting, stained lumber, decaying when it was put into the boat.

Q. I notice, Mr. Johnston, that you have only five per cent depreciation on the engines.

A. On the engines?

Q. Yes.

A. Yes, well that is right.

Q. You wouldn't expect these engines to last 200 years?

A. No, I wouldn't. I would not, but I consider, and you will find engineers today, surveyors who will state that in that length of time, two per cent is ample for an engine.

Q. The depreciation becomes more rapid as it becomes older?

A. Yes, as it gets older. Yes, like everything else in the universe, after it gets up, it begins to take a geometrical curve, and change.

Q. Have a curve that would shoot very rapidly at the end?

A. Exactly.

Q. Shouldn't that be taken into consideration as a part of this depreciation then? It wouldn't be so valuable, because its life was shorter on that account?

A. Yes, but I am putting it five per cent—putting it large.

Q. True, but it wouldn't last 200 years. Five per

cent in ten years would not be right.

A. Yes; it would go down—this geometric curve would go down; as the years progressed, the depreciation would in like ratio.

Q. Yes, that is the efficiency might do that, but its actual value is to be measured by its life, and would be shorter, because it has not got the life in it.

A. No; ten years—I don't consider it. In fact, I think that is large now. I think that is large in ten years, taking into consideration the way these engines were built.

Q. Then I understand that all of this machinery would depreciate on a sliding scale?

A. Certainly.

Q. That would be your idea?

A. Certainly.

Q. The same would be true of the hull and the house?

A. Exactly.

Q. You wouldn't want to be understood as having a house that would last 150 years?

A. Oh, no, no, not at all.

Q. Do you, of yourself, have any knowledge of what portions of the old Henderson were re-incorporated in the new?

A. No, I don't.

Mr. GUTHRIE: I suppose that is really not proper cross-examination to show that.

Mr. C. E. S. WOOD: It doesn't make any difference.

Mr. GUTHRIE: Perhaps we better wait until we do know what is there, for I don't know.

Mr. C. E. S. WOOD: Anything you want to know, ask him.

A. My list there simply represents a boat built like the Henderson at that age.

Mr. GUTHRIE: Well, we will pass that until we get it definitely before us. I think that will be all.

Redirect Examination.

Questions by Mr. ERSKINE WOOD:

Mr. Johnson, I understood you to say on your cross examination, that you thought the hull could have been repaired for about \$2500. Do you remember stating that?

A. Yes. Well, there was a misunderstanding there.

Q. What do you mean by that?

A. I mean that—that is before the collision, to put her in good shape, before the collision. That is what I meant.

Q. You meant to replace the rotten timbers, and things of that kind?

A. Yes, that is what I meant. There was a misunderstanding there.

Q. Just to clear that matter up, I think counsel understood you the other way. If you assume that the Henderson had a hole knocked in her, as is indicated on these photographs which I show you, marked Libellant's Exhibits 9 and 10.

Mr. MINOR: He saw the hull, Mr. Wood.

Mr. ERSKINE WOOD: He didn't see the hull when in this condition.

Q. And that her stern had dropped down about four feet. I am asking you if you assumed that she was hogged about four feet, would you say that hull could be repaired so as to make a capable hull for use on the river, or would you—well, I will stop there.

A. It could be repaired. You could build a boat around a kelson as far as that is concerned, or a keel or a stem as far as that. Have you any photographs —this here is one where she is hogged. No, I haven't seen her in this condition. Still that boat could be straightened up. I have straightened up boats in worse condition than that; that is, as far as the hog is concerned, and the hole in the side is concerned. It could be done, but it couldn't be done for any \$2500.

Q. Well, I will ask you for your opinion on this, then, Mr. Johnston: If you were confronted with a hull like that, a hole stove in her side, as indicated on these photographs, and hogged four feet, would you advise trying to straighten her up, or would you build a new hull?

A. Taking the decay, the age into consideration, taking that and the damage to it, the hull is practically a wreck, I would consider, and if it was mine, I would float her to some place and sink her, or let her burn up.

Mr. C. E. S. WOOD: I can't hear you.

A. I say I would float her somewhere, and let her

burn. She wouldn't burn floating, though. I wouldn't bother with her. In fact, I have repaired too many boats that wasn't worth the hauling out on the ways; to put that work on. A new hull would be much further ahead.

Q. Now, when you went over your itemized estimate with Mr. Minor—when you went over this estimate on your cross examination by Mr. Minor, Libellant's Exhibit 25, you said that in some cases you had gotten the items from Captain Shaver?

A. Yes.

Q. That is the number of davits, the cavels, or whatever it may be?

A. Yes, sir.

Q. And in other cases, you have gotten both the items and cost from him?

A. Yes.

Q. I am not sure, but I think you said one of those items was the electric light plant. I am not sure.

A. Yes.

Q. But anyway, I will ask you whether, when Captain Shaver gave you any of those costs, you simply took his word for it, and put it down at that, or did you use your independent judgment, and in some cases agree with his estimate, and in some cases change it, raise it or lower it?

A. There are some cases I agreed, but there is quite a number of places that I changed. In fact, I think I can show you.

Q. What I am getting at is, even in the cases that

you agreed with him, did you just take blindly his statement?

A. Not at all.

Q. Or did you use your independent judgment?

A. I used my independent judgment altogether.

Q. That is what I want.

A. It was principally to get the different items.

Q. You mean the number of articles on the boat?

A. Yes, the number of articles. This list will show that I didn't agree here with his item, because there is a number of—

Q. When you say "this list," you refer to the data which you showed to Mr. Minor this morning?

A. Yes, there is \$1490 there, and this figures up to \$1532.

Mr. C. E. S. WOOD: He has been examined on that several times. You better put it in evidence.

Q. The list which you now refer to—

A. You see there is a change there. It is reduced to \$1490.

Q. What is this original list that you have?

A. It is the list of towing equipment and some other little items.

Mr. ERSKINE WOOD: I offer this list in evidence.

Marked "Libellant's Exhibit 26." (See Page 1250.)

Mr. C. E. S. WOOD: In your own handwriting?

A. Yes, sir, but that is not a sample of my handwriting, not a sample.

Mr. C. E. S. WOOD: That is the list Mr. Minor

was examining on, on cross examination, was it?

A. Yes, that is the list.

Q. Mr. Johnston, on your cross examination you were asked as to many items of depreciation, and I want to know whether you answered them from your reasoning and memory, or whether you held a copy of that list in your hand when he was examining you, and referred to that?

A. Oh, from memory.

Q. Did you say that the cost of installation would increase over Morgan's statement?

A. No. Mr. Morgan gave me the amount that he was to individually at the time of the building, and I got the balance from Captain Shaver, and that is out at the ranch in one of my books. I am pretty sure I have taken the book out. That was when the Henderson was built. Also the calculations on her boiler. I took the book out there to figure the matter out.

Q. Well, you used your own mind on that?

A. Yes, altogether. In fact, I was compelled to.

Q. You said that you got the cost of the donkey boiler from James Monks?

A. I believe so.

Q. Do you remember that?

A. Yes; I am not positive.

Q. Who is James Monks?

A. He is the builder of the boiler. I was down there several times when it was being constructed, and I got the cost of the boiler, and I have built boilers for myself.

Q. If you were going to build a new boat for yourself, and were estimating the cost, how would you go about finding out what the different parts that made up the boat would cost?

A. Get estimates from different builders of those parts.

Q. The persons who were going to furnish the work?

A. Certainly.

Q. Is Monks that kind of a man for boilers?

A. He is. I had estimates from several. These estimates, I would state, change from one month to the other. Might have a boiler built this month for a certain amount, and next month see them again, and it might be a reduction.

Q. The practice then, if you were going to contract for a boat, if you were going to get any of the parts from independent dealers, you would go around the town, and find out what they would furnish them for?

A. Certainly. Well, if I felt like robbing people, I would likely, if I thought they were willing to pay a robbery price.

Questions by Mr. C. E. S. WOOD:

You never saw the wreck of the Henderson except afloat, except only this time when you saw her across the river, and when you saw her afloat, the hole in her side had been repaired.

A. Been repaired, I presume.

Q. So that the damage to her, and the hog in her

wouldn't be apparent in her at those times?

A. Not at all.

Q. Now, Mr. Minor asked you about the market value of the Henderson a month before she was wrecked, and you said then boats had no market value.

A. Not that ever I heard of.

Q. I want to get at the same idea myself, as near as we can, in another way. Take the month before she was wrecked, the last time you saw her, and as a boat builder, and familiar with the river boats here, what would you say her value was that date? Now, that is disregarding all those items.

A. Exactly?

Q. Oh, just summing the thing up as a lump, generally.

A. Oh, in the vicinity of forty-three or four thousand, something like that.

Recross Examination.

Questions by Mr. GUTHRIE:

About this last matter which Colonel Wood spoke to you—you would estimate her value at forty three or forty four thousand?

A. In that vicinity.

Q. You make your estimate because of the items you know, and have been told were in that boat, and her cost?

A. No, not altogether, no.

Q. What do you make it on then, if no market value?

A. No market value, but I would put the price on her about that. What I mean by no market value, is you might put a price on a boat, and put her up at public auction, and you wouldn't get a quarter of what the boat was worth. That is what I mean. No market value, and without the proper party came along, and wanted the boat for certain business—then he might pay more than the market value for her. Depends on how bad he wanted the boat.

Q. Then when you made your estimate on that, you considered—

A. I am figuring on what the boats—the cost of the boat, the deterioration or depreciation.

Q. That is what I want.

A. Yes.

Witness excused.

Mr. ERSKINE WOOD: I would like to put Captain Shaver on now, and withdraw him when Captain Hosford comes.

LIBELLANT'S EXHIBIT 26.

Log Towing Equipment:

40	Rope swifters	44.00
5	4 " Chain lines	10.80
240	Feet tieup lines $\frac{3}{4}$ ".....	5.00
150	feet 1" line	4.50
3	Breast lines 4" 60 feet.....	12.60
4	heaving lines	5.00
100	feet 1" line	3.35
75	feet 3/8 Gal.	3.20

75	"	1"	"	.....	15.22
100	"	7/8	"	.....	17.30
450	"	9/16	"	running line.....	26.80
1250	"	2½	cir.	tow line	132.00
600	"	¾	cable		63.00
3	Coupling	chains			13.50
11	chain	swifters			66.00
14	cable	swifters			63.00
19	cable	swifters, new			85.50
3	safety	cables with dogs			12.75
3	dog	lines			18.75
3	bridles				8.20
9	lantern	stands			7.65
8	axes				6.00
6	peavies				8.40
2	¾"	durable head lines.....			74.00
9	pike	poles			11.25
18	raft	lanterns with extra globes			20.00
10	tullan	" extra globes			9.00
4	7"	stern lines			70.60
4	⅞ Gal.	pennants			33.60
					850.97
150	ft.	" " cable			22.70
2	7"	head lines			39.60
2	⅞ gal.	pennants			16.80
150	ft.	1" " cable			22.70
3	rope	fenders			12.00
6	rope	racks			20.00
x	2	anchors with chains and, ⅞			
		chain cables			125.00
					x

1 iron safe	45.00	x
3 iron snatch blocks	40.95	344.75
<hr/>		
One pair 12" cal	50	
" " 8" "	35	
" " 12" inside dividers	60	
2 set taps and dies	12.50	
2 " pipe taps and dies.....	26.50	
1 21" monkey wrench	2.50	
1 18" " "	2.00	
2 14" " "	3.30	
2 12" " "	2.00	
1 8" " "	70	
1 6" " "	60	
2 24" Stillson wrenches	4.80	
1 18" Stillson wrench	1.65	
2 12" Stillson wrenches	2.50	
1 6" Stillson wrench	80	
2 pair pipe cutters	5.50	
3 machine hammers	2.55	
2 sledges	2.00	
1 forge	14.00	85.35
<hr/>		
One anvil	8.00	
3 Pair tongs	1.50	
2 cold cuts	1.50	
1 pair chain tongs	4.75	
1 brace	2.00	
1 set bits	4.00	
1 drill press	12.00	

1 set drills	5.00
8 cold chisels	2.00
1 doz gauge glasses	1.08
tow block and gear	210.00
	251.83
	85.35
	850.97
	1188.15
	344.75
	1532.90

CAPTAIN J. W. SHAVER, a witness recalled on behalf of the libellant.

Direct Examination.

Questions by Mr. ERSKINE WOOD:

Captain, you have testified before in this case, haven't you?

A. Yes, a little bit.

Q. And you are the manager of the Shaver Transportation Company, the owner of the Henderson?

A. Yes, sir.

Q. Now, I wish you would state, as long as we are on this subject, whether there is a general market value for boats here; whether there is such a free exchange of boats here that their market value can be deemed fixed?

A. No, sir, there is not. Sometimes if a company, or a party wants a boat, and need a certain kind of a

boat, they would have to pay more than she was worth. On the other hand, if you had a boat to sell, and nobody should happen to need a boat like that, you perhaps couldn't get half of what she was worth.

Q. You remember the estimate that Mr. Johnston has been testifying about all morning, Libellant's Exhibit 25. I will ask you to look at that and state whether, in giving Mr. Johnston the numbers of the various articles on the boat, you gave him the true numbers and the true amount of equipment that the boat carried when she was sunk in July, 1911?

A. Yes, sir, I did. I know she even had more on her than what is on this list.

Q. What would you consider her value was, as near as you can get at it, in July, 1911?

Mr. MINOR: Objected to as incompetent, because the witness is not shown to be qualified.

Mr. ERSKINE WOOD: I didn't want to go into that. I thought his former testimony, months ago, qualified him, but I will go into it.

Q. How long, Captain, have you been engaged in the boating business on the Columbia and Willamette Rivers?

A. About 35 years.

Q. Continuously in that business?

A. Yes, sir.

Q. What particular branch of the business, passenger business, towing business?

A. Yes, sir, passenger business and log towing and ship towing. Run on a passenger boat for several

years.

Q. What capacity?

A. I was master or captain; the last, perhaps, ten years, I have been manager of the company, and run the boats at different times.

Q. How many boats does your company operate?

A. We have seven all together. Sixteen boats and one gasoline.

Q. What business are they engaged in now?

A. Well, log towing, principally, some ship towing, and we are also interested in the Beaver, that is on the Klatskanine run.

Q. How long have you been in the towing business?

A. I don't know exactly I think about fifteen years.

Q. Have you built boats?

A. Yes.

Q. How many?

A. The G. W. Shaver, the Sarah Dixon, the M. F. Henderson, the Wauna, Echo.

Q. Have you bought any boats?

A. Yes, sir.

Q. What have you bought?

A. Bought the No Wonder. Let's see. I guess that is the only one we bought—oh, the Cascades, also the Cascades rebuilt.

Q. Sold any boats?

A. Well, the Resolute. We had a little boat and we sold her, a little propeller. That is the only one, I

think. Yes, we sold the G. W. Shaver.

Q. As a river man for the past 30 years, have you been acquainted with the sales of the boats as they have been made along the river?

A. Yes, sir, I think most every boat that has been sold around Portland, that is every boat of any size, I have known about what she was sold for.

Q. Now, I will ask you what you think in 1911, the M. F. Henderson was worth?

Mr. MINOR: I insist upon the objection.

A. Well, what she was worth to us, or what she was worth to somebody else?

Q. Well, you can state both.

Mr. MINOR: I object to his stating what she was worth to himself or somebody else.

Mr. GUTHRIE: He isn't qualified to state what she was worth to somebody else.

A. Well, I won't say to any one else, but I will say she couldn't have been bought from us for \$45,000, as she was our largest boat and best boat for towing ships and heavy work.

Mr. MINOR: I move to strike out that answer of the witness, as not responsive to the question, and incompetent.

A. In fact, we wouldn't have sold her for \$50,000.

Q. Keeping in mind, Captain, that there is no fixed market value, there is not enough dealing in boats to fix a recognized market value, still, as near as you can come to it, what would you put her general value at that time?

Mr. MINOR: I object to that also, on the ground that the witness is not competent to testify.

A. Her value was about \$45,000, I judge.

Q. Captain, have you a record of the earnings of the Henderson during the past three or four years before she was wrecked?

A. Yes, for about three years before she was wrecked, I guess. In fact, I could go back and get it for quite a ways further back.

Q. Have you got those with you, or have I got them?

A. Well, I think you have got a copy, and I guess I have got a copy.

Mr. MINOR: Under what allegation are you attempting to prove?

Mr. C. E. S. WOOD: Value.

Mr. MINOR: Showing value?

Mr. C. E. S. WOOD: Yes. Not demurrage or time loss, or anything of that kind; just as an indication of value.

Q. I don't know whether you have got this or not. These are what you gave me at one time.

A. I don't seem to have that either.

Q. Well, I hand you these three sheets and ask you what they are.

A. That was the steamer Henderson for 1909—

Q. What is it—earnings?

A. Earnings, and what was paid out, and the profits—gain. And the Henderson in 1910, twelve months, and the Henderson in 1911, for six months.

Q. In other words, those represent a condensed statement of the Henderson's earnings and what you paid out on her in the year 1909, 1910, and the year 1911 until she was sunk?

A. Yes, sir.

Q. How were these prepared?

A. Well, those were taken from the monthly statement that the bookkeeper turns in to me, and I transfer it to profit and loss book.

Q. In other words, these are condensed from your original records?

A. Yes, sir.

Q. You can produce those original records, if counsel desires?

A. Yes, sir; yes.

Mr. ERSKINE WOOD: I offer these in evidence.

Mr. MINOR: I object to them as incompetent.

Mr. ERSKINE WOOD: You mean you want to see the records?

Mr. MINOR: Well, their evidence is secondary evidence, not the best evidence, and are self-serving. It appears to be made up without regard to the original records. I don't mean by that were not copied from the original records, but I mean the original records are not here, and the original records are the best evidence.

Mr. ERSKINE WOOD: We will offer them for the convenience of the court, and will produce the original records for your examination.

Mr. MINOR: Object to them also because they

do not show for what purpose any of the payments were made, or from what source the moneys were received.

Mr. ERSKINE WOOD: You will see all of that from the original books.

Marked "Libellant's Exhibit 27."

Libellant's Exhibit 27.

"Str. Henderson 1909.

Jan.	Paid out	\$2108.20	Received	\$3005.60
Feb.	Paid out	2106.35	Received	4112.78
Mar.	Paid out	2308.21	Received	3561.61
Apr.	Paid out	2293.87	Received	3859.09
May	Paid out	2783.50	Received	5309.36
June	Paid out	3062.90	Received	3522.69
July	Paid out	2213.72	Received	3228.70
Aug.	Paid out	2406.46	Received	4939.69
Sept.	Port. Sh. B. Co.	2069.15	Received	2840.76
Oct.	1031.80	3403.42	Received	1926.80
Nov.	Paid out	2540.67	Received	2957.05
Dec.	Paid out	2666.84	Received	4664.04
		29963.30		43928.17

Gain for twelve months 13964.87

Gain for one month 1163.74

Gain for one day 38.79

Str. Henderson 1910.

Jan.	Paid out	\$2330.94	Received	\$2548.60
Feb.	Paid out	2377.41	Received	4142.28
Mar.	Paid out	3026.14	Received	5030.61

Apr.	Paid out	2668.68	Received	5177.88
May	Paid out	3623.70	Received	3581.50
June	Paid out	3793.37	Received	4645.78
July	Paid out	2725.48	Received	3832.35
Aug.	Paid out	2850.51	Received	3755.98
Sept.	Paid out	3173.71	Received	5657.50
Oct.	Paid out	2669.82	Received	4831.40
Nov.	Paid out	2157.97	Received	2526.54
Dec.	Paid out	2908.81	Received	2582.46
		34306.54		48313.84

Gain for twelve months.....\$14007.30

Gain for one month..... 1167.27

Gain for one day 38.30

Str. Henderson for Six Months 1911.

Jan.	Paid out	\$2502.07	Received	\$2756.25
Feb.	Paid out	2271.79	Received	1859.67
Mar.	Paid out	2814.39	Received	4315.79
Apr.	Paid out	2171.88	Received	2595.14
May	Paid out	3336.63	Received	5118.73
June	Paid out	3699.53	Received	4007.83
		16796.29		20653.41

Gain for six months 3257.12

Gain for one month 642.85

Gain for one day 21.42

1909	12 months	\$29963.30	\$43928.17
1910	12 months	34306.54	48313.84
1911	6 months	16796.29	20563.41
		81066.13	112895.42

Gain for 30 months	\$31829.29
Gain for one month	1060.97
Gain for one day	35.36

Q. You will produce your books, Captain?

A. Yes.

Q. Captain, were all the things that you listed to Johnston actually on the Henderson at the time of the wreck?

A. Yes, sir.

Q. Have you, or can you state the amount that you spent in building the new Henderson?

Mr. MINOR: What is that?

Mr. ERSKINE WOOD: I asked him if he could state the amount that he spent in building the new Henderson.

Mr. MINOR: I object to that as incompetent, immaterial and irrelevant. It doesn't make any difference what he spent in building the new Henderson.

A. I have an itemized list of it, and the bills also.

Mr. C. E. S. WOOD: Counsel states this testimony is offered for the purpose of guiding the court in arriving at the question of value.

Q. I will ask you whether the new Henderson is substantially a duplicate of the old Henderson?

A. Yes, sir; just about, outside of the cabin.

Q. How does the cabin of the new Henderson compare with that of the old Henderson?

A. Well, the one on the old Henderson was more expensive than the one on the new.

Q. Why?

A. On account of having a ladies' cabin, and having seats that were a little expensive, and there were double berths in each stateroom; fitted with two beds in each stateroom.

Q. The old Henderson, then, was fitted up for passenger business?

A. Yes, sir.

Q. As well as towing?

A. Yes, sir.

Q. How is the new Henderson fitted up in that respect?

A. She is just fitted up for towing. One berth in each room, and forward cabin, just board seats. Has a large cabin, but just board seats, and has no after cabin at all.

Q. In other ways the boats are similar?

A. Yes, the hulls are just about the same.

Q. What machinery is in the new Henderson?

A. The same engines that were in the old one. Used everything we could of the old machinery in the new boat.

Q. What was the estimated amount of salvage you got out of the old boat?

Mr. MINOR: Object to that also as incompetent. It should be what is the amount of salvage.

Q. Well, what do you estimate the amount of salvage you got out of the old Henderson at?

Mr. MINOR: I object to that also.

Mr. GUTHRIE: Let him state what the salvage was.

Mr. MINOR: He should state what salvage there was, and what it was worth.

Mr. ERSKINE WOOD: I am asking that.

A. About \$15,000.

Q. What was the salvage?

A. We got the engine, the boiler, hog chains, they were all in pretty bad shape, broken and twisted; and rudder stock, steering gear engine. It was broken up pretty bad; and anchors, anchor chains, pumps, capstans—I guess that was about all. I think most everything else was lost. Of course, might be some other little things I don't think of.

Q. What, in your opinion, was the value of that salvage?

Mr. MINOR: I still object to that as incompetent, and the witness not qualified to state.

A. Why, in the shape it was in, I think about \$15,000.; between fifteen and sixteen thousand dollars.

Q. Roughly, what did it cost you to raise the Henderson, and save this material, and put it in shape where you could use it?

Mr. MINOR: I object to that also. If he knows what it cost, it is proper evidence, but not guessing at it.

Mr. ERSKINE WOOD: He is not guessing at it.

A. It cost about \$10,000. A little less than \$10,000.

Q. I hand you this statement, Captain, of expenditures, and ask you to state what it is.

A. This first part here—this has several leaves.

Q. How many pages—there are a number, aren't there?

A. Four and a half pages. What we actually paid out to build the new Henderson, using all of the old boat that we could.

Q. What is the amount?

A. That is, what I mean of the old boat, is the machinery and everything that way, not the hull, I don't mean.

Q. What is the amount stated there?

A. Twenty seven thousand—

Mr. MINOR: The paper shows for itself.

A. \$27,726.68.

Q. What is there in addition?

A. Cost of raising and getting up to the Portland shipyards, \$8,424.99.

Q. Does that include the cost of putting the salvage in condition so you could use it?

A. No, sir, that is just getting it here to the yard, and hauling out on the ways.

Q. What page is that?

A. These pages aren't numbered. The heading is "Cost of raising steamer Henderson."

Q. All right. What does the next sheet show?

A. It says, "After other statement was made out for raising, wages, watchman, cleaning up wreckage, moving machinery, etc., \$878.66."

Q. Does that purport to show the amount you spent in putting the salvage in condition to use?

Mr. MINOR: Object to that also.

A. Yes, sir; this is for work done at the yard, and for moving the machinery out on the wharf, so they could launch the old boat. This next is on board the old steamer Henderson, not on new boat.

Q. What do you mean by that?

A. This last boat hasn't got so much equipment on board in the way of lines and snatch blocks and those extra mattresses for the extra beds, and the donkey boiler that was lost overboard, and ballast tank, and pillows, and dining room tables, etc.

Q. How much in value is this boat short of equipment as to what the old boat was?

A. \$870.48.

Q. Was that statement made up from your books, Captain?

Mr. MINOR: This is all subject to my objection.

A. Besides that there was an iron safe, that is a money safe, and a set of boat davits, and 150 barrels of fuel oil.

Q. Was that statement made up from your books, Captain?

A. Yes, of course, this fuel oil—

Q. (Interrupting) Can you use that statement as a memorandum, and state from it, of your own memory, that these accounts are the correct expenditure?

A. Yes, sir.

Mr. MINOR: I object to the whole of this as not the best evidence.

Mr. C. E. S. WOOD: You can have the books, Mr. Minor, as soon as you want them.

Q. Captain, do you know from your own memory that these articles that you have mentioned in the way of equipment were on the old Henderson?

A. Yes, sir; I am pretty well posted on the equipment on all those boats.

Q. And were they lost?

A. Yes, sir, were lost.

Q. I don't know that you stated these amounts clearly into the record, and I will ask you to give the totals of each list once more, stating briefly what it is, and whether or not you know it to be a fact, using that—not just reading off that, but using that as a memorandum to refresh you mind with.

Mr. MINOR: We object as not the best evidence, purporting to be a statement prepared from the books, which are not offered in evidence.

A. Do you want me to read this in?

Q. No, just the totals. Look at it as a memorandum, and state whether or not it is so, and then give just the totals. First, do you know that that is so?

A. Yes, sir.

Q. And what are the totals under the different headings?

A. Well, the total cost of the boat, what we have paid out is \$27,726.68.

Q. That is the total of what you have paid out for building new Henderson?

A. Yes, sir. Now, of this, I have charged \$100.

of my own wages a month for over-seeing this, and \$100. for my brother, the engineer, but outside of that, the rest is money paid out.

Q. What are your and your brother's regular wages?

Mr. MINOR: Objected to as incompetent.

A. Mine is \$350. a month, and his is \$300.

Q. Does that \$100 represent a reasonable portion of your time given to building the new boat?

Mr. MINOR: I object to all of this as not a proper element of damage, incompetent and hearsay.

A. I consider it was. I think it is reasonable.

Q. And the same as to your brother?

A. Yes, sir; do you want me to read the others?

Q. You don't mean to say that was the total cost of the new Henderson, do you?

A. No; that was the total cost that we paid out, using all of the old stuff that we could.

Q. Now, take the next total that you have there.

A. The next is the cost of raising the steamer Henderson, and getting her up to Portland ship yards, \$8424.99.

Q. Do you know that to be a fact from your own memory?

A. Yes, sir.

Q. All right. What is next.

A. The next is "after the other statement was made out for raising, wages, watchman, cleaning up wreckage, moving machinery, etc., \$878.66.

Q. Do you know that to be an amount actually paid out for these purposes?

A. Yes, sir.

Mr. MINOR: All this is subject to our objection.

A. Then on board the old steamer Henderson, not on the new boat, \$1385.48.

Q. These you know from your own memory, were articles actually on the boat?

A. Yes, sir.

Q. And not on the new boat?

A. Yes, sir.

Q. And their value?

A. Yes, sir.

Q. Now, reverting for a moment to that question of yours and your brother's wages. What is your brother.

A. He is chief engineer of the company, looks after the machinery and attends to that part of it.

Q. What was he doing in the construction of the new Henderson?

A. Well, he was overseeing it, and managing the men, and getting what stuff they needed, and figuring out locations, etc.

Q. What were you doing?

A. I was overseeing the woodwork, well the whole boat in general. Spent quite a little time at the ship-yard.

Q. Have you got the vouchers actually showing these payments?

A. Yes, sir.

Q. I wish you would produce them.

Mr. ERSKINE WOOD: I will offer this statement about which he has been testifying.

Mr. MINOR: I object as incompetent, particularly as it is not the best evidence, but transferred from certain books which contain the original entries.

Mr. ERSKINE WOOD: I will produce the books of original entry.

Mr. MINOR; I object also as incompetent and irrelevant, inasmuch as the measure of damages is not what it cost to build the new Henderson, but the difference in the value of the old Henderson before and after the accident.

Marked "Libellant's Exhibit 28."

Q. Do those vouchers show what each payment was made for, Captain?

A. (Producing vouchers) Yes, sir.

Q. Do they all relate to expenditures on the new Henderson, and include nothing else?

A. Yes, sir.

Mr. C. E. S. WOOD: They illustrate that statement that has just been introduced under counsel's objection, do they?

A. Yes, sir.

Mr. ERSKINE WOOD: I offer these vouchers as a whole.

Vouchers tied together and marked "Libellant's Exhibit 29."

A. There is another bunch here, the cost of the raising.

Q. Put them in.

A. Put them in with these, or keep them separate?

Q. No, separate.

Second bunch of vouchers marked "Libellant's Exhibit 30."

Q. This Libellant's Exhibit 29, Captain Shaver, relates to expenditures for wages and new materials, and articles bought for the new Henderson. Is that correct?

A. Yes.

Mr. MINOR: I object to each and every one of these papers upon the ground that the same are and each of them is incompetent and irrelevant, inasmuch as they relate to the cost of a boat built since the accident, and do not relate at all to the value of the boat damaged, or to the value of its equipment, or have any bearing upon the damages sustained by reason of the accident.

Mr. GUTHRIE: For the further reason that they do not constitute the proper element of damages.

A. (Producing other papers) Now, these are the captain's reports of the boats that done the work there. The rest (Exhibit 30) is the cost of the raising.

Q. What do you mean by the boats that did the work down there?

A. Well, our boats that we had there.

Q. Assisting in raising?

A. Yes, assisting in raising.

Mr. MINOR: I object to the Libellant's Exhibit

30. I wish to object to these and to each of these, inasmuch as they have not been proved by the parties incurring the expense, you don't have any of them proved by the parties incurring the expense, nor are they shown, nor is any of them shown by any one who knows the facts to be items of expense incurred in raising the Henderson in connection with the salvage of the property taken from the Henderson, and they are therefore incompetent and irrelevant.

Mr. GUTHRIE: We further object too, for the reason that there is no proof of the reasonableness of the charges.

Mr. MINOR: I concur in that objection.

Q. Captain, I will take these up one by one. I will ask what is that paper that I hand you. (Part of Exhibit 30 marked 30-a).

A. Those are pike pole hooks.

Q. This marked "B. Trenkham & Company, dated July 26, 1911," marked 30-a, what does that refer to?

A. Why, these are twelve pike pole hooks, and twelve chain hooks. Pike pole hooks, are used on the pike poles for rafting logs, and chain hooks are a dog that is used.

Q. What is the amount shown?

A. \$13.20.

Q. How much for the pike poles?

A. \$7.20.

Q. How much for the —

A. Chain hook, \$6.00.

Q. I will ask you to state whether that is a reason-

able charge.

Mr. MINOR: I object, as the witness is not competent, and it doesn't show that they have anything to do with the raising of the old Henderson, or the repair, or that there are any articles on that list on the old Henderson.

Q. What did you use those articles for, Captain?

A. These went on the new boat.

Q. Part of the equipment in place of that lost on the old boat?

A. Yes, sir.

Mr. MINOR: I object because they have nothing to do with the old boat, nor do they constitute any part of the articles lost, nor any part of the damage sustained by the accident, and are incompetent and irrelevant.

A. These chain hooks were hooks that we got for handling the chains under the wreck. They were hooks about that long (indicating), we had to drag the chain with.

Q. Do you know the significance "H. R. Henderson"?

A. Henderson, that is the boat is was charged to.

Q. What is "H. R."?

A. H. R. for Henderson Wreck. That is the way we have of marking them.

Q. There is nothing attached to this which shows that B. Trenkman received payment.

A. No, that is not receipted bills. Most of them are not receipted bills. We always get statements.

They send us statements the first of the month, and the statements are paid, not the bills; only in a few cases where we get just one item, or maybe two, from some one, and get the bills receipted.

Mr. C. E. S. WOOD: The shortest way to get at this would be to bring the books in.

Mr. ERSKINE WOOD. Certainly, but they don't want us to do it the short way.

Mr. C. E. S. WOOD: That is the proper way, to have the books here, and everything there is back of the books. We can produce these statements and vouchers.

Q. Have you got the books with you now, Captain?

A. Yes, sir.

Mr. C. E. S. WOOD: Have them here?

A. Yes, of course the books go right through.

Mr. C. E. S. WOOD: That is all right. It may take a little time, but that is the proper way to get at it.

A. The books show all the business; doesn't show for just this particular boat.

Mr. C. E. S. WOOD: We want to show what it cost to make the salvage.

A. Well, we have a ledger account for this particular item, if you want these books that we pay from, then we have to go through the books and check the items, separate. I have both of them here, whichever you want.

Q. Where is your ledger?

A. Well, the ledger—it is one of these ledgers that the leaves come out. I have the leaves here. Of course, we can bring up the whole book, if it is necessary.

Q. Captain, under what name in the ledger was this account kept, on the salvage operation?

A. Well, the raising account was under one. That is the wreck account was under one, and the other was the cost of the Henderson.

Q. Well, turn to that wreck account. Is that the wreck account that you hold in your hands?

A. Yes, sir.

Mr. C. E. S. WOOD: Are those the original sheets of your loose leafed ledger?

A. Yes, sir. The letters here indicate the boat that done the work.

Q. Kept under your supervision?

A. Yes, sir. You can have the bookkeeper up, if you want him.

Mr. ERSKINE WOOD: I don't want to offer it in evidence. They won't need the book.

Mr. C. E. S. WOOD: Let him examine it, and state what it shows, and let counsel examine it. Just testify from the book.

Q. Go through with these, Captain, and state what each item is.

Mr. MINOR: I object to any evidence taken from the loose leaf ledger on the ground that the same is incompetent; the ledger is not a book of original entry, and no item contained therein is evidence of any fact.

Mr. C. E. S. WOOD: Can you state from that, Captain, what the sum total show the cost of that wrecking operation to have been? Does the ledger give the sum total in there?

A. No, it isn't figured up here. It is on that statement.

Questions by Mr. C. E. S. WOOD:

It hasn't been figured up. Then you state from that into the record what the items are, and then we will follow that up by producing the books.

A. Yes, it is here, the amount.

Q. How much is it?

A. \$9743.65, and then this extra equipment was on, \$1385.48.

Q. That was the total of the wreckage expenses, was it?

A. The total of the wreckage was \$9743.65.

Q. Now, what books of original entry were those items there in? What books do you keep to which the ledger is an index?

A. Well, we keep kind of a day cash, kind of a blotter, and all of the cash that is paid out is in this book, and then the checks from the check book are copied in this date, and then it is taken from here into the ledger.

Q. Now, you take the ledger as an index, and turn to the book of the original entry and give the items in the record, making up this nine thousand and something.

A. Of course, the boat's time, that wouldn't be

in the—

'Q. Well, we will get at that afterwards, but just take the items that are there.

A. I think maybe it would be better to get the bookkeeper up here. He knows a little better about this than I do.

Mr. C. E. S. WOOD: We will take Captain Shaver off the stand, and put Captain Hosford on, so as to let him go. (To Captain Shaver) If you think the bookkeeper can do better, you better call him up here.

A. Yes, I think he understands it better than I do.

Witness excused.

CAPTAIN O. W. HOSFORD, a witness called on behalf of the libellant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. ERSKINE WOOD:

Captain Hosford, what is your business?

A. Steamboating.

Q. What do you mean by that? Are you an owner of boats?

A. Owner and operator.

Q. Where?

A. Columbia River. Columbia and Willamette Rivers.

Q. How long have you been operating boats?

A. Since 1888.

Q. All of the time here on the river?

A. Yes.

Q. Passenger or tow boats?

A. In both I have been.

Q. What are you in now?

A. In the towing business.

Q. How many boats do you operate?

A. I operate three.

Q. What are they?

A. The Weown, the Wentworth, and the Rowena.

Q. Are you the owner of them?

A. I am in the company; yes, we own them.

Q. Do you know the old M. F. Henderson that was sunk by the Samson in 1911?

A. I do.

Q. How familiar were you with her? How often did you see her?

A. Well, quite often. Aboard of her a great many times. Aboard of her when she was on the ways, when she was hauled out.

Q. Did you know the value of the Henderson in 1911?

A. Well, I would think I would. That is, I could put a value on it, what I think it would be worth.

Mr. MINOR: I object to the question, upon the ground that the witness is not competent to testify.

Q. What value would you put on her, Captain?

A. \$45,000.

Mr. C. E. S. WOOD: How much did you say, Captain?

A. \$45,000.

Q. How often were you aboard of her?

A. It is hard to tell. I suppose I was—oh, a great many times.

Cross Examination.

Questions by Mr. MINOR:

Captain, how long was she?

A. In the neighborhood of 160 feet.

Q. How much?

A. In the neighborhood of 160 feet.

Q. And how wide was she?

A. About 32 feet in width.

Q. What was she built of?

A. Fir wood.

Q. What kind of wood?

A. Fir, I said.

Q. Do you know anything about what class of fir wood she was built of?

A. What?

Q. Class of fir wood she was built of?

A. No. Clear wood. I wouldn't say whether it was red fir or yellow fir; that is, the hull. The cabin was built, a great part of her, with cedar.

Q. The cabin was built of cedar?

A. Yes, sir.

Q. And the hull was built of fir, you think?

A. Yes, sir, I know it was built of fir, but I won't say what grade of fir, whether red fir or yellow fir.

Q. Does it make any difference whether red fir or yellow fir?

A. In the hull, yes.

Q. If you don't know whether built of red fir or yellow fir, is your estimate of its value based upon the theory it was built of yellow fir or red fir?

A. Well, there wouldn't be very much difference in the two firs if they were green. Now, I am not—couldn't tell whether they were green when they went in the boat or not.

Q. It would make quite a difference in the value of the boat whether the boat was built of green timber or seasoned timber, wouldn't it?

A. Of seasoned timber or dead timber. They cut some dead logs. But people building a boat look a good deal after the class of wood that goes in the boat. The lumber that goes into a boat is generally the highest priced lumber that is put out of the mill.

Q. And you don't know what kind of lumber went into this boat?

A. I think it was the pick.

Q. You don't know that; do you?

A. I don't know it, no. I know what I put in my boats when I build them.

Q. And you assume that this boat was built like your boat?

A. Yes, sir.

Q. But you don't know that to be a fact?

A. Well, I pretty near know it.

Q. I say, you don't know it.

A. No, but I know the man that built her, and I know he has been in the business, and I could judge he would build the best he could get, building for

himself.

Q. Then you were only judging of the manner of building the boat and the stuff that went into it by the character of the man that owned it?

A. Yes, sir.

Q. Not by the boat itself?

A. Well, I don't think he would slight her.

Q. Well, I say you are not judging by the boat at all?

A. Well, I have seen the boat a good deal, and would say it was built out of the best material they could put in her.

Q. What was the condition of the timbers in the boat? Sound?

A. Fairly sound, yes.

Q. What do you mean by fairly sound?

A. Well, as good as they could be at that age. She has been built ten years.

Q. Well, were any of them rotten?

A. No, sir.

Q. Any of them soft, as they call it?

A. Well, there would be some soft wood in her.

Q. Do you know whether any were soft or rotten?

A. What?

Q. Do you know whether any of the timbers were soft or rotten?

A. Well, I was aboard of the boat. I won't say whether it was—about a year before. She was on the ways, and I was looking down in her, looking into her,

interested, as I have looked in a great many boats, most anybody's boats that was on the way; I generally go up to see them after they are pulled out.

Mr. C. E. S. WOOD: A year before the wreck?

A. About a year before the wreck; in the neighborhood. The boat was well taken care of, and had been thoroughly salted. It showed the salt in the boat, preserved the wood.

Q. How often had it been salted?

A. Well, I couldn't say how often, but she had salt in her when I was looking at her—showed in there.

Q. Had it been salted recently?

A. I couldn't say. The salt looked like it had been in there awhile, been laying in her.

Q. And you couldn't tell whether any of the timbers were rotten or soft, or not, could you?

A. Well, I didn't—from the looks of them, they looked good. I didn't stick a knife in them, or test them at all.

Q. Now, what kind of machinery did she have in her?

A. She had a piston valve engine.

Q. What kind of an engine?

A. Piston valve.

Q. How large?

A. Eighteen seven, seven foot stroke, and eighteen inches in diameter.

Q. Seven foot stroke and eighteen inches in diameter?

A. Yes, sir.

Q. Well, what kind of an engine was it?

A. A very good engine, piston valve engine, very good.

Q. Did you examine the engine to see what the condition of the engine was?

A. I couldn't say that I—no, I didn't.

Q. You assumed then that the engine was in perfect condition, and in good repair, did you?

A. Yes, apparently; just as good as could be.

Q. You just assumed that?

A. Yes, sir.

Q. You didn't examine to see if that was the condition?

A. No, I didn't.

Q. Now, did she have a boiler in her?

A. Yes, sir.

Q. What kind of a boiler was it?

A. Well, it was a fire box boiler.

Q. Did you examine that to see the condition of it?

A. Not particularly, no.

Q. You don't know whether it would be good condition or not, do you?

A. No, I only assumed it was.

Q. Just assumed that it was?

A. It was ten years old, and hadn't been cut down any in its steam. Must have been in good condition.

Q. Do you know whether it was cut down in its steam?

- A. It was not cut down up to that time.
- Q. How do you know?
- A. The certificate showed it hadn't been.
- Q. What statement?
- A. The Government Inspectors.
- Q. Did you see that in the boat?
- A. Yes, sir.
- Q. What was that certificate?
- A. What did it consist of?
- Q. Yes.
- A. It would be the annual inspection of the boat.
- Q. What was the date of it?
- A. I couldn't tell you just exactly.
- Q. And how much steam was she allowed to carry? According to that certificate?
- A. As near as my recollection is, 165 pounds.
- Q. Are you sure that that was the amount?
- A. Well, I won't say it was. It was in the neighborhood of that.
- Q. How much was she allowed to carry when the boiler was new?
- A. 165 or whatever it was.
- Q. Are you sure of that?
- A. She hadn't been cut down.
- Q. How do you know she hadn't been cut down?
- A. Because I knew the time the boiler was built, and I knew by being on the boats that it hadn't been cut. Whenever a boiler is cut, we know it. Whenever a boiler, any boiler on the river here that is in one of our operating boats, or anybody's, I know it when

it has been cut down.

Q. How do you ascertain it?

A. Well, by being in touch with the other steam-boat men and being around.

Q. As a matter of fact, Captain Hosford, all you know about that is hearsay, isn't it, what somebody else tells you?

A. No, not entirely, no.

Q. You couldn't say what that certificate contains, whether 160 or 165 pounds?

A. I am pretty positive was 165.

Q. And you can't tell me how much the certificate of the year before that had allowed either, can you?

A. It had the same as the year before.

Q. Do you remember that fact?

A. I know that it wasn't cut down, the steam hadn't been cut down from the original.

Q. Do you mean to tell me, Captain, that you know of your own knowledge, whenever that steam limit was cut down?

A. No, I would not know, not without I would go there and be there when she was inspected.

Q. As a matter of fact, you would only have that from hearsay, wouldn't you, somebody told you?

A. The inspectors very often tell me.

Q. You didn't get that from the inspectors, did you?

A. I don't know but what I did.

Q. Do you know you did?

A. I ain't positive I didn't.

Q. Are you positive you did get it from the inspectors?

A. No, sir.

Q. You don't know where you got it?

A. No, I can't say I do.

Q. What else did she have on her besides a boiler and an engine?

A. She had on all the equipment that would be necessary on a boat.

Q. What did that consist of?

A. Life boats, and life preservers.

Q. Did you see the life preservers?

A. Yes, I have seen the life preservers.

Q. On that boat?

A. Yes, sir; they are in sight.

Q. They were in sight?

A. Yes, sir.

Q. How many life boats did she have?

A. I couldn't tell you. She had several.

Q. Had several. What kind of life boats were they?

A. Pretty much metallic boats.

Q. Do you know how many there were?

A. No, I do not.

Q. What else did she have?

A. She had a great deal of equipment for towing and capstans and winches.

Q. How many capstans did she have?

A. I wouldn't—she had two or more.

Q. You don't know whether she had two or one?

A. She had two. She may have had more, but she had two I know of particularly.

Q. You remember her having two?

A. Yes, sir.

Q. But you don't remember whether any more or not?

A. No.

Q. Now, you said she had a towing equipment. What did that consist of?

A. That is engine, and line, and lots of gear, swifters and lines and dog lines and wire rope.

Q. Did you look at that equipment to see the condition of it?

A. No, not particularly. I noticed it aboard her.

Q. You didn't pay particular attention to it, did you?

A. No, it looked good to me, to go aboard of her, and I noticed a great deal of the different kind of equipment she had on her.

Q. You didn't go on that boat for the purpose of seeing what she was worth, did you?

A. No, sir.

Q. And when you went on the boat, you didn't undertake to ascertain what she was worth, did you?

A. No, sir, I didn't.

Q. You didn't undertake to ascertain the condition of anything on her, did you?

A. Yes, sir, I did. I was always proud to go on his boat, and if I could better my boat with something he had on there,—I always considered him up-to-date

in the equipment of his boat, and we patterned after him a great deal, in putting paraphernalia on, to make it convenient.

Q. On what do you base your estimate that the value of the boat was \$45,000?

A. Well, I have built boats and paid for them.

Q. And you think, then, it would cost \$45,000 to build that boat?

A. Yes, I do think it would cost \$45,000.

Q. That is what you think it would cost to build her?

A. Yes, sir.

Q. At that time?

A. Well, it would have cost more.

Q. What would it have cost to build her at that time?

A. Well, it would have cost more than \$50,000.

Q. What would it have cost, in your judgment?

A. I figure up to build and equip her as she was, it would cost \$55,000.

Q. \$55,000?

A. Close to that, between fifty and fifty-five thousand.

Q. You say she was ten years old?

A. Yes, sir.

Q. How rapidly will a hull depreciate in that time?

A. Well, they depreciate a good deal if you don't keep them up. We pull a boat out and repair them, and put them in shape, and figure that they are as good as new.

Q. Any repairs been made on that boat, hull?

A. Been a great deal of repairs.

Q. On the hull of the boat?

A. Yes, sir.

Q. Prior to that time?

A. Yes, sir.

Q. When did you see repairs made on the hull?

A. Well, I can't say the date, but it was before—perhaps a year before that accident.

Q. A year before the accident?

A. During the year before it anyhow.

Q. What were the repairs that were made on the hull?

A. Well, general overhauling.

Q. Well, what were they? What did they consist of?

A. Caulking and putting in new wood where it was bruised or rotten.

Q. Do you remember any new wood being put in?

A. Yes, I do.

Q. What part?

A. Deck beams and some of the hull.

Q. Deck beams and some of the hull? How much?

A. Well, I couldn't say; enough to do, make the boat in good shape.

Q. Where was this boat when you saw her being repaired?

A. In the Portland Shipbuilding Company.

Q. Where was that?

A. South Portland.

Q. Who owns it?

A. A man named Nelson owns it.

Q. Nelson. Now, when you made an estimate of \$45,000 on the boat, what did you include in that estimate?

A. Everything that is on her, the boat complete as she was.

Q. Furniture?

A. Furniture, and everything.

Q. Now, can you tell me what furniture was on her?

A. Well, no, I can't. As far as—she had good bedding on her, and good equipment generally. The furniture of the boat.

Q. Did you inspect the bedding?

A. Well, I have slept in it.

Q. Slept in it?

A. On the bed.

Q. Any other furniture?

A. Well, she was apparently thoroughly furnished for the business she was in; even better than ordinary boats.

Q. You said you owned the Weown?

A. Yes, sir.

Q. Did you build that or buy it?

A. We bought the Weown.

Q. When did you buy that?

A. About three years ago.

Q. Three years ago?

A. Yes, sir.

Q. How does the Weown compare in size and value with the Henderson?

A. Well, she is a smaller and lighter boat.

Q. Smaller and lighter boat?

A. Smaller and lighter, lighter built boat, less material in higher steam.

Q. Higher steam?

A. Higher steam and smaller engines?

Q. Smaller engines and higher steam.

A. Yes, sir, smaller boat, smaller boiler, too.

Q. But carries more steam?

A. Carries more steam. . . .

Q. You say she was not as powerful as the Henderson?

A. No, sir, no; nowheres near.

Q. How does the value of the Weown compare with the value of the Henderson, in your judgment?

A. Well, there would be \$10,000 difference.

Q. \$10,000 difference?

A. Yes, sir.

Q. Now, how much did you give for the Weown?

A. I gave \$26,000.

Q. And you think the Henderson is worth \$10,000 more?

A. I spent \$13,000 on her, putting her in what I call a first class tow boat, after I bought her, and she was a new boat too when I bought her.

Q. She was new when you bought her?

A. That is, she was less than three years old.

Q. Less than three years old when you bought

her?

A. Yes, sir.

Q. Did you ever own the Wentworth?

A. I bought the Wentworth.

Q. How does the Wentworth compare with the Henderson?

A. In the equipment, everything she compares on a class with her, but she is a smaller boat.

Q. Smaller boat than the Henderson?

A. Yes, sir, she is a smaller boat than the Weown.

Q. But in all other respects she classes up with the Henderson?

A. Yes, as far as she goes, she classes up with her.

Q. Is she as powerful a boat at the Henderson?

A. No, sir, the same size engines as the Weown. Less steam pressure; one boat has 192 pounds of steam, and the other has 225.

Q. The Wentworth has 192 pounds?

A. Yes, sir.

Q. And the Henderson has 165.

A. Yes. Eighteen inch cylinder, seven foot stroke.

Q. And what is the cylinders of the others?

A. Sixteen, six foot.

Q. Sixteen, six foot?

A. Yes, sir.

Q. In value how does the Wentworth compare with the Henderson?

A. That would be, perhaps—today, if they were both built, do you mean?

Q. Yes, at the time this accident took place, in July, I believe it was, June or July, 1911.

A. There would be \$15,000 difference.

Q. \$15,000 difference. Which is the more valuable boat?

A. The Henderson was.

Q. Now, the value of a boat depends very largely on the cheapness of her operation, doesn't it?

A. Well, not entirely.

Q. I say, it depends largely upon that?

A. It does.

Q. So that the less powerful boat, if it can be operated more cheaply than the more powerful boat really would earn more money, would it not?

A. No, sir. The more powerful boat having plenty of work would earn the more money.

Q. Even if they are more expensive to operate?

A. They do much more work. They are able to do a different class of work.

Q. Is there a class of work that the Henderson could do that the Wentworth could not do?

A. Well, the Wentworth wouldn't be as good to handle as she would, say, towing ships and that class of work. She would do it, but it would take her a longer time to do it.

Q. Well, would she handle ships as cheaply as the Henderson would?

A. She would, but I might not—might start down the river here with a ship loaded with grain, drawing 22 or 23 feet of water, and handle it as good, I could-

n't; I know I couldn't handle it as good as the Henderson with my boats. She don't have the power to back it up if it started to run away. If everything went right, she would take it to Astoria, but she couldn't—she don't have the weight. She don't have the stuff in her to do it as good as the other boat.

Q. What was the horse power of the engines in the Henderson?

A. Well, I couldn't say. I never knew. I know practically what the horse power of my boats are, nearly so, not from my own figures, because I am not capable, don't know enough to do it, but I get it from competent men, what it figures out according to the wheel.

Q. Do you know what the horse power of the engines of the Henderson were?

A. In the neighborhood of 700.

Q. And what was the horse power of the engines in your boat?

A. Well, perhaps 400.

Q. So they haven't as much power as the Henderson?

A. No, sir; no, sir. The area of the wheel and everything counts in the power.

Q. Do you know the Hercules?

A. I do.

Q. How does it compare with the Henderson?

A. Well, in lots of ways very much.

Q. Well, what do you mean by very much?

A. Well, she is as powerful a boat as the Hen-

derson is.

Q. Just as powerful a boat as the Henderson?

A. Yes, sir.

Q. Is there any advantage in one boat over the other?

A. Well, I wouldn't say there was a great deal. I don't know but what the Hercules was allowed more steam.

Q. And she is fully as powerful a boat?

A. Yes, sir.

Q. To do the work the Henderson did?

A. Yes, sir.

Q. And do it as well?

A. Yes, sir.

Q. Do you know whether the Henderson was an expensive boat to operate or not?

A. Well, I don't think she was overly expensive. I think she was rather economical if you worked her easy.

Q. Do you remember that she was a boat that used more fuel oil than most of the boats of her power?

A. Well, I don't know as she did, working her the way they had to work her to do all the work they did.

Q. Do you know she did not?

A. Well, I should say that she was a fairly economical boat, developing the power she did.

Q. How old is the Wentworth?

A. Seven years old.

- Q. And the Weown you say is how old?
- A. Six years old.
- Q. That is their age at this time?
- A. Yes, sir.
- Q. How old is the Hercules?
- A. I couldn't tell you just exactly. She is older than the Wentworth. I can't say just how old.
- Q. Older than the Henderson, you think?
- A. Well, I don't know. I think she is a newer boat than the Henderson.
- Q. Newer than the Henderson?
- A. Yes, sir; I won't say positive. There ain't much difference; wasn't much difference in them.
- Q. Which is the longer or larger boat, the Henderson or the Hercules?
- A. I think the Henderson was the larger boat.
- Q. You think she was the larger boat?
- A. More beam, I think.
- Q. How about the length?
- A. Well, there wasn't much difference; if anything, the Henderson was the longer.
- Q. If anything, the Henderson was the longer?
- A. I think.
- Q. Now, Captain Hosford, did you ever buy any boats on this river like the Henderson?
- A. No, sir. The Weown was the nearest of any boat.
- Q. Did you ever know of any boats like the Henderson being bought or sold on this river, or in this section of the country?

A. No, I don't know as I do, like the Henderson. There have been several boats bought and sold here.

'Q. What boats in that same class have been bought and sold here?

A. Other boats in that same class? There haven't any of that same class. The Telephone was taken away from here, bought here and taken away. She ain't of the same class, only she is a bigger and different boat.

Q. She is a more powerful boat, and a boat built especially for the passenger trade?

A. Yes, built especially for the passenger trade.

Q. Different kind of a boat?

A. Altogether, yes, sir.

Q. And a boat much more valuable than the Henderson?

A. I don't think so.

Q. I mean cost more to build.

A. Cost more to operate, and will have to have a trade to put a value on it.

Q. She would cost more to build, and if she could get the business, would earn more?

A. No, I don't know as she cost more to build. She was poorly built, cheaply built. Her cabin was moved off of another boat. Got up to sell, I think.

Q. How did the Henderson compare with the Cascades?

A. She was a better boat than the Cascades.

'Q. Larger or smaller?

A. I don't know as she had any more power in

her engines and boiler than the Cascades, but she had lots more power, the Henderson had than she, in her wheel and general construction.

Q. You mean by that her lines were better, do you?

A. Well, she was constructed and done better work than the Cascades.

Q. How does she compare with the Game Cock?

A. I think Game Cock is her equal.

Q. Her equal?

A. Yes, in the work and the construction of the hull, and even the cabin. It was a different class of cabin, different class of equipment in every way.

Q. But you think the Game Cock was as valuable a boat as the Henderson?

A. No, sir.

Q. You do not?

A. I do not.

Q. In what respect was the Henderson better?

A. She was built as a combination boat, that you could use in the passenger or towing business, either. She had a very fine cabin on her, and very fine equipment of cabin. She had metallic life boats, where the Game Cock has a couple, two or three wooden boats. Her davits were heavy. She had a great deal of fine equipment on her.

Q. Now, she did practically no passenger business at all?

A. When she was built she did.

Q. I am talking about later.

A. Well, they had that on her. It was constructed for the passenger and freight business.

Q. But at the same time she was doing no business of that character, and was not valuable for that business at that time.

A. Yes, if anybody wanted to charter her, she would be very valuable.

Q. There was no demand for a boat of that kind at that time?

A. There is always a demand for a boat of that class.

Q. For passenger business?

A. Yes, that boat could have been used here very profitably many times.

Q. Why wasn't that boat in the passenger business.

A. Well, they had no route. The route, when he built her, that he was running on,—they built the Astoria Railroad, and they took it away from him. She was too valuable a boat, too much money, and he took up the towing business, and put her into it.

Q. That is, the boat was more valuable for towing at that time than for any other use?

A. Yes, sir.

Q. And the Game Cock or the Hercules was just as valuable for towing as the Henderson?

A. Yes, sir.

Q. And there really was no run upon which you could operate a passenger boat of that character at a profit, was there?

A. No, there wasn't, without somebody would buy her, or you would compete. There was no profit in it.

Q. The cabin, therefore, was really of no value upon the boat at that time, was it?

A. No, sir, the niceness of her was not, but it was there.

Q. It was there, and might come in some time?

A. Yes, sir.

Q. But at the time she was sunk, the equipment of the cabin was of no value to the boat.

A. The extra part of the boat, the forward and after cabin weren't, but it was there.

Q. Now, in estimating this boat, the value of this boat, what part of the value did you put to this extra cabin, being fitted up as a passenger boat; how much of the value is added for that, in your judgment?

A. The better equipment and all that that would go on there?

Q. Yes, whatever was on her, which fitted her for the passenger business. How much of that—how much value did you put on that fact?

A. Perhaps it would be \$4,000.

Q. \$4,000?

A. In the neighborhood. I couldn't say exactly. It will be practically that, that they could get along without in the towing business.

Q. You and Captain Shaver are very friendly, aren't you?

A. Yes, sir.

Q. Have been for a great many years?

A. 25 years.

Q. How many years?

A. 25.

Q. Very intimate with Captain Shaver, and would do everything you could to help him out if you could?

A. In the steamboating business, yes.

Q. In any other way, wouldn't you?

A. I wouldn't do him any hurt.

Q. You would do him a good turn, if you could any time?

A. Yes, sir; yes, sir.

Q. You are more than ordinary friends?

A. Well, we are friends; friends. I have got a great many friends.

Q. I don't doubt that. But I say you and he are more than ordinary friends, aren't you?

A. If I am friendly with anybody, I am friendly.

Q. Do you do business commercially?

A. In business between one another, yes, sir.

Q. You do business for him, and he does business for you?

A. Yes, sir.

Q. You trade with one another?

A. No, not much trading, but if I need a boat to help me tow, or something of that kind, he will help me.

Q. You will go to him for it?

A. Yes, sir.

Q. If he needs a boat to tow, he comes to you?

A. Well, he has never had to. He has rented a

boat for me a time or two.

'Q. But you have had to do so once or twice, and have gone to him?

A. Yes, sir.

Redirect Examination.

Questions by Mr. ERSKINE WOOD:

Captain, since you are going into this friendship business, I will ask you if you are a friend of Mr. Daniel Kern's?

A. I am.

Q. Good friends with him?

A. Yes, sir.

Q. How long have you been friendly with him?

A. 22 or 23 years.

Mr. C. E. S. WOOD: You are not friendly enough with either Shaver or Daniel Kern to say on the witness stand what wasn't true to help them out, would you?

A. No, sir.

Mr. GUTHRIE: A leading question.

Mr. C. E. S. WOOD: Well, it is one of those unnecessary questions.

Witness excused.

A. M. CONWAY, a witness called on behalf of the libellant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. C. E. S. WOOD:

Are you the bookkeeper for the Shaver Transportation Company?

A. Yes, sir.

Q. What is the system that you have there, in the way of books of original entry, and whether the ledger is a loose leaf ledger. Just describe briefly your system of bookkeeping.

A. Why, in paying the bills, I copy from the check book or stub into a cash book, and from my cash book into the ledger, a loose leaf ledger.

Q. And how about other expenditures?

A. Well, what is paid out in cash we take receipts for, and copy it into the cash book, and from the cash book—well, that is where I take it from there into the ledger.

Q. How about services rendered by boats?

A. That is copied into the Journal and from the Journal into the Ledger.

Q. And did you say any cash you took out of the till you pay—

A. That is copied right into the cash book.

Q. Well, now, are those books that Captain Shaver has brought up here the books of original entry?

A. Yes, sir.

Q. In which those cash entries are made?

A. Yes, sir.

Q. And these sheets that I show you, the original ledger—loose leaf ledger sheets?

A. Yes, sir.

Q. We are trying to prove an account on the cost of wrecking the Henderson? That is the salving her from the wreck, and I want you to take this ledger ac-

count, the loose leaf ledger, and using that as an index, turn back to the original entries from which that account is posted, and give them to us.

A. You want each one?

Q. Yes, each item.

A. Well, I have to have the Captain's reports for the first one.

Q. I think these are they, are they not?

A. Yes, sir.

Q. This bundle of papers I hand you?

A. Yes, sir.

Q. Those captain's reports, as I understand it, take the place of an original book entry?

A. Well, the captain's report is made out by the captain of the boat as soon as he finishes his work, whatever it is.

Q. And it is the origin of the entry that gets into the ledger?

A. Yes.

Mr. MINOR: Let me see one of those captain's reports.

A. Here is a report.

Mr. C. E. S. WOOD: There is only some one item on them that we are concerned with, which will go to the services rendered.

Mr. MINOR: Where is the item?

A. I will show it to you as we come to it. That is the first report. Here is 17½ hours work for the steamer Shaver.

Mr. C. E. S. Wood: Before we get mixed any

further, just let us state what you are reading from. "Captain's report of the Steamer Shaver, July 22, 1911, signed H. Chase."

Whereupon proceedings herein adjourned until Thursday, May 22, 1913, 10 A. M.

Portland, Ore., Thursday, May 22, 1913, 10 A. M.

Mr. C. E. S. WOOD: I was putting these in item by item, and would offer them when we got through. Would you rather have them offered item by item?

Mr. MINOR: I don't care as far as that is concerned.

Mr. C. E. S. WOOD: It is stipulated between the various counsel concerned, that Mr. Conway may prepare an itemized statement of the account from the books of original entry, and that this shall be substituted in lieu of the original entries themselves, but no other objection is waived, and counsel for the Columbia Contract Company and the Standard Oil Company specifically object that the itemized list so prepared is irrelevant, immaterial and incompetent.

Mr. MINOR: And in connection with the objection, that the objection is based upon the fact that in our judgment it is not proper to show what has been spent for raising the Henderson, or upon the wreck of the Henderson, but only what it was necessary to expend, and the reasonable value of the labor employed and of the materials purchased and used in this behalf.

Mr. C. E. S. WOOD: The same stipulation with the same objections to be effective as to an itemized

statement of the cost of the construction of the new Henderson.

Mr. MINOR: That is right, except it doesn't go far enough. I object to these items also, because what it may have cost to build the new Henderson, it is not proper to show for the purpose of showing the damage or loss sustained by the accident to the Henderson the proper proof would be the value of the Henderson at the time of the accident, and the expense of repairing the Henderson, so that she would be, when repaired, substantially equal in value after as before the accident.

Mr. GUTHRIE: Less the value of the Henderson in her salved condition.

Mr. ERSKINE WOOD: I would like to understand whether you contend that the Henderson was not a total loss.

Mr. MINOR: That is what you contend.

Mr. ERSKINE WOOD: We contend the Henderson was a total loss, but there was some salvage.

Mr. MINOR: You contend was a total loss, and that was the contention you had to sustain in court to maintain your libel.

* * * * *

Mr. C. E. S. WOOD: I don't believe it is worth while discussing that, because the Court held we could not recover on time and demurrage, and as a total loss as well. Then we amended, and left out the time and demurrage.

A. N. CONWAY, resumes the stand.

Direct Examination continued.

Questions by Mr. C. E. S. WOOD:

Mr. Conway, do you understand what you are to prepare and at some future time return, as quickly as possible though, into the court?

A. Do they want every item that ever was paid out? That is, say you bought five cents worth of some thing, do I have to specify that item and say five cents?

Q. Yes.

Mr. GUTHRIE: The Standard Oil Company is not so particular about the five cent items, but we would like to know about an item of \$15,000 in the ship yard—know something about what that consists of.

Q. And then we would like the same sort of an itemized statement for the building of the new Henderson. These two separate ledger accounts that you have got. One is for the wreck of the Henderson, and the other is for the building of the new Henderson, and the idea is to give to opposing counsel and the court, all the information that our books afford, as for what purpose this indebtedness was incurred, and as I say, if it is covered by a contract, show what the contract was for, attach a copy of it?

A. That is the only contract.

Q. Do you know according to the books which you have kept, what the total expenditure was in building the new Henderson?

A. Well, do you mean from memory? Do I just know exactly?

Q. Well, I was asking whether you knew from memory, whether you were sufficiently familiar with the subject.

A. No, I wouldn't want to say exactly.

Q. I show you Libellant's Exhibit 28, and ask you if that is a statement that you made out from the books?

A. It is.

Q. And can you tell from that what the expenditure was in building the new Henderson?

A. Yes.

Mr. MINOR: I object to this, you understand.

Mr. C. E. S. WOOD: It is all subject to the objection of both counsel, as already stated.

Q. What is that?

A. \$38,415.80.

Q. Now, I will ask you to look at the itemized statement, and give me the total amount spent for new material and wages in constructing the new Henderson?

Mr. MINOR: All subject to the objection, you understand.

A. \$27726.68.

Mr. MINOR: This is new material?

Mr. ERSKINE WOOD: And wages. That includes that contract of \$15,500; to the Portland Shipbuilding Yards.

Q. Does that include the Portland Shipbuilding

Yard contract?

A. Yes, sir.

Q. What was the amount of that contract?

A. \$15,500.

Q. Now, what was the total cost of raising the old Henderson?

A. \$8424.99.

Q. And what is this item (indicating)?

A. That is stuff that was on the old steamer Henderson that we didn't put on the new boat.

Q. How much does that amount to, in full?

A. \$1385.48.

Mr. MINOR: As I understand, that is salvage you didn't put on the new boat?

Mr. C. E. S. WOOD: No, that is stuff that was in the old boat with which the new boat was not equipped.

Mr. MINOR: I know; but was that salvage?

A. Whatever you would call it, that was stuff on the old boat that we didn't put on the new one.

Mr. MINOR: You got that from the old boat?

A. I don't understand you.

Q. Mr. Minor means, are those articles that you actually rescued and saved from the old boat that you didn't use, or are they articles that were on the old boat, but never included in the equipment of the new boat?

A. They were never included in the equipment of the new one.

Q. Were they recovered as salvaged articles at

all?

A. No, sir.

Q. Then this Libellant's Exhibit 28, as I understand it, is a correct statement of items taken from the book by you?

A. Yes, sir.

Q. Then, Mr. Conway, you are only to prepare the itemized statement according to the stipulation as to the salving of the wreck of the Henderson. You prepare that and bring it in, but you needn't prepare the further statement about the building of the new Henderson. And get that as soon as you can, will you?

A. Yes.

Q. Is the cost of the new boiler now in the new Henderson included in that statement?

A. No, sir.

Cross Examination.

Questions by Mr. MINOR:

Mr. Conway, I want to ask you a few questions. You have said that you have an item of \$1385.48 for articles which were on the old Henderson, and not put on the new Henderson?

A. Yes, sir.

Q. Those articles, I understood you to say, were never recovered from the old Henderson?

A. Yes, sir.

Q. Now, have you a list of what those articles were?

A. Yes, sir.

Q. Is that in that statement?

A. Yes, sir, the last page (Libellant's Exhibit 28).

Q. Have you any personal knowledge of these articles?

A. No, sir.

Q. Where did you get the information?

A. From Captain Shaver.

Q. And where did you get the prices to be put on them?

A. What is that?

Q. Where did you get the prices to put on them?

A. From Captain Shaver.

Mr. MINOR: Then I move to strike out all of the evidence of this witness regarding the items constituting the sum of \$1385.48, as hearsay.

Mr. C. E. S. WOOD: That only purports to be taken from the books. I am not trying to give his testimony except under what I understood was our stipulation that this is the correct statement taken from the books by him as the bookkeeper. He has not been put on the stand to qualify or speak as to any reasonableness.

Mr. MINOR: All right, Mr. Wood.

Q. Now, you have got the total cost of the new Henderson, \$38415.80.

A. Yes, including those three items that I have mentioned.

Q. I say, you have got the total cost of the new Henderson?

A. Yes, sir.

Q. At that sum?

A. Yes, sir.

Q. And you have got the total cost of the new material and wages, \$27726.68?

A. Yes, sir.

Q. What is the difference between the two? I don't mean in figures. I say what goes in to make up the difference between the two?

A. Well, the cost of raising, and the cost of cleaning up the wreckage, up at the Portland Shipyard, watchman, wages, and things like that, and then the stuff that was on board the old steamer Henderson, not on the new boat.

Q. What makes the difference here between the cost of the new Henderson, and the cost of the new material and wages for building the steamer Henderson? There is more than \$10,000 difference. Now, what is included in that sum to over \$10,000 difference between the two?

A. Just what I told you. The cost of raising the steamer Henderson. You see here is the amount we paid out for new stuff on the Henderson. Then the cost of raising the steamer Henderson was this. Then after this statement was made out, "for raising and wages," that is at the Portland Shipyard. "Watchman and cleaning up wreckage, moving machinery, etc. \$878.66." On board old steamer Henderson, not on new boat was this.

Q. Then that entire cost of the new Henderson was \$27726.68?

A. Yes.

Q. That is right, is it?

A. Yes, sir.

Q. These items here are expense of raising the old Henderson?

A. Yes, sir. (Referring to Exhibit 28).

Q. And the list of the stuff that was on the old Henderson?

A. Yes, sir.

Q. So the total cost of the new Henderson was only \$27,726.68?

A. Yes, sir.

Q. That includes everything that was on her?

A. Yes, sir.

Redirect Examination.

Questions by Mr. C. E. S. WOOD:

Did you say that the twenty seven odd thousand dollars is the entire cost of getting the new Henderson?

A. No, sir.

Q. Let's explain it then, because the way you now have it would look as if they got a boat such as the new Henderson for twenty seven thousand.

A. In order to get the new Henderson, we had to pay out that much money for material for the rebuilding, etc.

Q. Material and labor?

A. Yes, yes, and labor. Then the cost of raising the old boat was over \$8,000, which we had to pay out

in order to get part of the new boat, as we used part of the old boat in the new boat. And the \$878.66 was for cleaning up the wreckage after we got it to Portland in the yards; and this stuff that we lost off the old Henderson that was not put on the old boat was \$1385.48. Now, that necessarily allows \$38,415.80; we paid out in money all but \$1385.48 of that stuff—of that amount. And that much was on board the old steamer Henderson and was not put on the new boat, which of course we lost.

Q. And does not include that new boiler and doesn't include the value of the salvage that went into it?

A. No, sir.

Mr. C. E. S. WOOD: I only wanted to get it clear. I will put Captain Shaver on.

Recross Examination.

Questions by Mr. MINOR:

Do your books show any account with the old Henderson after the wreck?

A. After the wreck?

Q. Yes.

A. Why, only what it cost to raise her.

Q. Now, is the old Henderson, as it now stands, carried on your books at any value at all?

A. I haven't got a value on her, no.

Q. Do you carry her on your books at all?

A. No, that is charged to the company.

Q. To whom?

A. To the company.

Q. Charged to the company. What do you mean by that?

A. Well, we keep our yards—the stuff that we get for there, is charged to the office—to the company. We keep separate accounts.

Q. Now, I don't know who the company is, you know.

A. Shaver Transportation Company

Q. Now, what I want to get at Mr. Conway is this: There is the hull of the old Henderson, which is still owned by the Shaver Transportation Company.

A. Yes, sir.

Q. And they have spent some money on repairing it?

A. Yes, sir.

Q. And they have that old hull there, repaired and used for some purpose. Now, I want to know whether your books show what that is carried at.

A. No, I have no value on that.

Q. No value at all?

A. No.

Q. But you have the item?

A. No, I don't believe I have.

Q. Well, didn't you charge to the old Henderson the amount that you spent in repairing the Hull?

A. You mean what we paid to the Portland Shipyard for repairing?

Q. I don't know who you paid for repairing the hull, but I mean didn't you charge on your books to

the old Henderson the amount which you paid for repairing the hull?

A. Yes, I have it.

Q. Then that is charged to the old Henderson?

A. Well, it is charged to the barge M. F.

Q. To the barge M. F.?

A. Yes, sir.

Q. And do you carry M. F. at any value on your books?

A. No value. We haven't finished her yet, and we haven't got it figured out at all. We haven't finished the barge, what we intend it for.

Q. You haven't finished it?

A. No, sir. All the money that we have expended on her, I have down.

Q. Now, Mr. Conway, I understand the old boiler on the old Henderson has been put on some other boat.

A. I couldn't tell you that. I don't know. Mr. Shaver will have to explain those things.

Q. What I want to know is, whether the wreckage which you charged there against the new Henderson is credited with the amount of the boiler which you put on some other boat?

Mr. C. E. S. WOOD: Of course, if he knows, I will be glad to have him answer. I am only telling you for your information, we will put Captain Shaver on, and you can go into it fully.

A. There is no boiler charged on this statement at all.

Q. No boiler charged on that statement at all?

A. No, sir. We simply gave the boat a new boiler, and didn't charge it to her at all in this statement. I have it on my books and charge her with the difference, but didn't put it on this statement, because the boiler wasn't lost.

Witness excused.

CAPTAIN J. W. SHAVER, recalled by the libellant.

Direct Examination.

Questions by Mr. ERSKINE WOOD:

Now, Captain Shaver, referring to this same Libellant's Exhibit 28, just state from that the cost of the new material and labor on the new Henderson.

Mr. MINOR: I object to his stating it from that statement.

Mr. C. E. S. WOOD: Can you state it from memory what it cost to build the new Henderson?

A. No, I don't know as I could from memory. I have went over this statement and checked up on it, and know about all of the bills and men at work there.

Questions by Mr. C. E. S. WOOD:

Let's drop the statement for the present. You can certainly give an estimate. Just tell in your own way how she was built, what went into her, and what the cost and values were.

Mr. MINOR: We object, of course, to any evidence regarding the cost of the new Henderson, as irrelevant and incompetent, immaterial, particularly be-

cause it appears from the evidence in this case that the old Henderson was either a total wreck, and its value could be ascertained, or, if she was not a total wreck, then it could have been repaired, and the only competent evidence would be what it would have cost, the reasonable expense of repairing it, to put in as good condition as she was before the wreck.

Mr. C. E. S. WOOD: When you say "incompetent," you leave me a little bit in the dark. You mean to raise the objection as against the capacity of this witness to testify to the fact, or only against its relevancy and materiality in the issues.

Mr. MINOR: No, I think the evidence itself is incompetent, for I don't think it is competent to show the cost of the new boat. I don't think it is competent evidence to show the loss of the old.

Mr. C. E. S. WOOD: I just want to understand whether your objection as to incompetency relates to the competency of the witness testifying to the facts.

Q. Now, go ahead.

A. Do I understand you to ask how we had her built, or what was furnished of the goods?

Q. I want you to state from your own personal knowledge, yes, how she was built, what went into her, and what it cost you.

A. You don't want anything to do with the old boat, that is, whether we thought she was fit to repair?

Q. Yes, I do. I want you to give the Court and counsel a history of just how you built her, and all

about it.

A. From the time we got the old Henderson to the shipyards?

Q. Yes.

A. Well, after the wreck, we brought the M. F. Henderson to the Portland shipyard, and the house was all gone, and all of the piping was broken down, and the valves broken, and the hull was twisted. The stern dropped down about four feet at one corner; all the hog chains broken; a hole in the side of the hull about 40 feet long; kelsons broken; frames broken; deck smashed up; the boiler broke loose and pushed to one side. And after we got her out on the ways, and cleaned up a little, we made a thorough examination of the hull, and found there were a few floor timbers that were soft, that would perhaps need to be renewed inside of two or three years, and the cylinder timbers showed a little decay; so we decided that it would be impossible to straighten this boat up, and get her back in shape like she was before, and hold her in that shape. She would have to have new kelsons, and these would have to hang mostly on the chains anyway to hold her in the shape she was before.

Mr. ERSKINE WOOD: Just let me interrupt you. Explain what you mean by hanging on the chains.

A. Well, the kelsons would not hold her up after she had been strained in this way, so she would have to hang on the—have to hoist her up and hang her on

the chains.

Q. Hog chains?

A. Hog chains. That is, the strain would come on the hog chain, and if she would ever break a chain, why, she would go back in the same way she was before, the stern down perhaps four feet, and we considered that it would cost too much to repair her, and, the boat being ten years old, we thought as long as we would have to spend that much money on her to repair her, and then not have a boat that would hold in shape, or could really be put in shape, that it would be more economical to build a new hull.

Q. Did you contract that building?

A. And we contracted for the work for a new hull, and house, to the Portland Shipbuilding Company for \$15,500.

Q. Did you pay it?

A. Yes, sir.

Q. Was that a reasonable price?

A. Yes, sir.

Mr. MINOR: This is all subject to our objection.

Mr. C. E. S. WOOD: Yes. It is understood, that, as this witness' testimony will be in a narrative form, the objection made by opposing counsel both for Columbia Contract Company and Standard Oil continues throughout the entire testimony.

Mr. ERSKINE WOOD: That is, objection as to cost of new Henderson being material to this case?

Mr. MINOR: As far as it relates to cost of the new Henderson, what they spent on that, or what was

the reasonable worth of what was spent on that.

Q. I don't know whether you answered my question—was that a reasonable sum?

A. Yes, sir, we considered it so. The Portland Shipbuilding Company were to use all of the hog chains that they could use. They were to work them over, and put them in shape, in their contract price; also use the rudder stocks, and any part of the old Henderson that could be used. Mr. Nelson, manager of the Portland Shipbuilding Company, thought it would be better—

Mr. MINOR: I object to what Mr. Nelson thought.

A. All right.

Q. Just leave that out, and state what was done.

A. Well, we let the contract and went to work building the new boat, and we had men take out the machinery of the old boat, and get it out on the dock, so that the old boat could be launched and got out of the way; and the boiler was also put out on the dock. We had the old hull patched up and put in shape so that we could float her at a cost of about \$1800.

Mr. MINOR: I don't know what that has got to do with it, if you are suing for a total loss.

Mr. C. E. S. WOOD: I will say this is intended to aid in valuing the old Henderson.

A. The cost on this old hull just included fixing the hull and deck, and putting the hog chains on; no house at all. Now, in regard to that boiler, do you

want me to explain that?

A. Yes, I want you to give a full explanation, as clearly as you can.

A. We rebuilt the Cascades.

Q. Is that another one of your boats?

A. Yes, sir. Had a new hull built for her, and we had to get her built and out of the way before the new Henderson started. So the boiler in the Cascades being over 30 years old, and needing a boat in a short time, we thought as long as we were rebuilding the Cascades, we would take the Henderson's boiler and put in the Cascades, as the Cascade's machinery was too light for a high pressure boiler.

Q. Did you do this?

A. We did this. We had what repairs was necessary done to this boiler to put it in the same shape it was before the wreck of the Henderson, and this cost of repairing this boiler was put in the cost of the new Henderson.

Q. How much was it?

A. I couldn't say the exact amount, but I have the Portland Boiler Works bills for it.

Q. Can you give approximately the amount?

A. Oh, I should say perhaps \$300. We had to get a new ash pan. The old ash pan was all mashed up, and all of the small connections that went into the boiler were broken, and the steam pipe was bent up, and we had to have some of that straightened and put into shape. Then we contracted for a new boiler for the steamer Henderson.

Q. With whom?

A. With the Portland Boiler Works, James Monks.

Q. What did that cost?

A. That cost at the—

Mr. MINOR: I object particularly to that.

A. The naked boiler at the shops cost \$5500. There was none of this cost of the new boiler, for hauling the boiler to the shipyard, or no cost of any kind charged to the new Henderson in this statement that was made out.

Q. Let me interrupt you again, and see if I get the correct idea. It may help court and counsel. Then, if I get you, you treated the boiler of the old Henderson as if it had really gone into the new Henderson, and charged up the cost of repair in that account, but in fact, you put the new boiler into the new Henderson, for which you made no charge whatever against the account?

A. Yes, sir.

Q. Now, go ahead.

A. We used the same engines in the new Henderson, and all the piping, valves and oil tanks and everything from the old Henderson that was in shape to be used in the new Henderson.

Q. Just let me interrupt you there. You say in shape to be used. Was there any of it that was not in shape that you put in shape?

A. I meant anything that could be put in shape and could be used. The wood work was the only

contract that was let. The other work we done the same as we do in building all of our boats, by day's work, hire our own engineers. My brother is an engineer, and oversees that part of it.

Mr. ERSKINE WOOD: What is his name?

A. Lincoln Shaver; and I attend to all the other part.

Q. Now, proceeding this way, what did it cost to build the new Henderson?

A. It cost about \$27,000 by using all of the stuff from the old Henderson that we could.

Q. Now, then, you were treating her in a sense as if you were rebuilding the old Henderson, and putting into her the salvage from the old Henderson, I understand?

A. Yes, sir.

Q. Then what did it cost to make that salvage which you could use for her?

A. Well, that would be hard to tell exactly. It cost us about \$800 to clean the wreck up, and to get it on the dock, but of course in installing the machinery and putting it in the new boat, we had quite a lot of other work to do then, to put it in shape so that we could use it.

Mr. ERSKINE WOOD: How much did it cost you to raise the wreck, and get the salvage up to the dock?

Q. Yes, and how much did it cost you to raise the old Henderson and get her to the dock at Portland?

Mr. MINOR: I object as incompetent and irrele-

vant.

Mr. GUTHRIE: I think the witness should show the foundation of his knowledge.

Mr. C. E. S. WOOD: We will show that later.

Q. Did you have anything to do with raising this wreck?

A. Yes, sir.

Q. What?

A. Had full charge of it.

Q. Were you there present on the spot?

A. Yes, sir; all the time. I have had a great deal of experience in raising boats. Raised perhaps six or eight steamboats in my time.

Q. Was Captain Crowe with you all the time?

A. No, sir; not all the time. He was there several times; looked over the work.

Q. Whom did he represent?

A. Why, he said he represented the insurance people.

Q. Insurers of what?

A. The Samson, or the Columbia Contract people; said they had insurance on the Samson.

Q. Did he make any objection, or were there any differences, between you?

A. No, sir; he said that he thought we was doing as well as we could.

Mr. MINOR: I object to what he said as hearsay.

Q. Captain Crowe is dead, isn't he?

A. Yes, sir.

Q. Now, state under your charge and manage-

ment, what it cost to get her up, and get her to the dock in Portland?

Mr. MINOR: Subject to objection as incompetent, what it cost him.

A. It cost something over \$8,000.

Q. Now, how was that made up—in a general way? A. Well, in the first place, when we heard the boat was sunk, I did as I usually do in those cases, got barges, two barges and a derrick scow to haul timbers.

Q. Where did you get them from?

A. Got the two barges from the Oregon Round Lumber Company.

Q. Where did you get your derrick?

A. Derrick scow from Wakefield. I don't know the name of the company. And ordered timbers and blocking and stuff from the Eastern & Western Lumber Company. They sawed it out at once, and got it ready for us. And got chains and jacks from the O. W. R. & N. Company, chains to put under the boat to raise her, and got C. W. Dofflemier, the house mover, with jacks and blocking, and things that he needed, and also to furnish a few men and that same day we towed one of the barges and the derrick to the Eastern & Western Lumber Company, loaded on the timbers, had the chains hauled there from the O. W. R. & N. Company's boneyard; put all these timbers, chains and blocking on the barge that same day, and on the other barge we took Dofflemier's stuff at the foot of Davis street, and left that night for

the wreck, arriving there the next morning. We found the boat near the head of Tenas Illihee Island, and in 27 feet of water, at low tide, and it being in the summer, there was quite a June freshet, and we only got slack water for about one hour before the top of the flood which made it very bad in raising the boat, which was laying cross ways of the current, and over a little more than on her beam ends. We got the derrick below her, got ahold on the top of the king post with the derrick, and run lines from the top of the hull that was out, and put the steamers—I don't know what boats it was now. I would have to look that up to see.

'Q. Whose boats were they?

A. They were the Shaver Transportation Company's boats. I think the Shaver and the Cascades, but I could look that up, and see exactly what boats we had. And we tried to straighten her up, and got her pretty well straightened up, but we were unable to hold her; and we worked for some three or four days before we was able to get the boat straightened up so we could keep her right side up, and it was impossible to get chains under her before we could get her straightened up. The current runs so strongly most of the time, that it was hard to make much headway. Finally, in a few days we got her straightened up, and towed her inshore, and got a diver to help get the chains under, and got a barge on each side and kept lifting and at high tide we would take her in on the beach as far as we could, and then tighten

up on the chains as the tide went down, until we got her up in shape so we could tow her to Portland.

Q. How did you get the water out of her?

A. We never got the water out of her until she was hauled out on the ways of the Portland Shipyard, but I will say that we had, at different times, four and five boats when the tide would be right, to try and straighten her up, and the day that we did get her straightened up, we telephoned to Portland to Captain Dell Shaver to be sure and have the Shaver there at a certain time, and we already had the Cascades. No wonder, Wauna and Sarah Dixon there, and also the Echo. And we had pulled on her about three hours before the Shaver arrived, but was unable to straighten her up, and by the assistance of the steamer Shaver, we got her on an even keel, and was able to hold here there.

Q. How did you get her to float so you could tow her?

A. We had one barge on each side, and chains under, and—timbers across on the barges, and chains under the steamer Henderson, and held her up in that way. And in towing up to Portland, we had the derrick scow astern, and had a chain on the shaft to help hold the wheel, and stern up.

Q. And then you brought her in to Portland in that way?

A. Yes, sir, brought her to Portland in that shape.

Q. Now, I understood you to say that she cost, up to this point, getting her to Portland was some-

thing over \$8,000?

A. Yes, sir.

Q. Now, how was that principally made up? Give the principal features of it.

A. That was for the service of the boats that we had there. We made a charge for the boats that we had to get for a short time by the hour, at \$8.00 per hour. We did not charge the time of these boats from the time that they left Portland, but from the time they left where they were going after a raft until they got back to that place again. But we had the steamer Cascades there, and carried on the work night and day, when necessary, and we made a charge of \$150. a day for her. We also boarded the crews, and the extra men on the Cascades and Wauna.

Q. Was this \$8,000. and upwards a reasonable charge for the total service?

A. It was.

Q. How did your charges for your boat's time compare with your regular charges?

A. We, as a usual thing, charge \$10. an hour on all jobs without they last a considerable length of time, and we then sometimes charge as low as \$8.00 an hour, but anything less than ten hours or over would be charged \$10.00 an hour.

Q. So that your charge of \$8.00 an hour was your lowest charge?

A. Yes, sir.

Q. How about \$150. a day for the Cascades?

A. That is as low as we would ever hire a boat

out for all day and furnish crew and fuel.

Q. Did you furnish crew and fuel at this time?

A. Yes, sir; we had the Wauna there all the time, using at different things, and also for boarding part of the crew.

Q. Are there any professional companies on the Columbia River to whom you could have contracted this?

A. No, sir.

Q. Were there any other boats than your own that you could have hired?

A. Not at that time of year, no, sir. Had a very hard time to get them.

Q. Did this break into your regular business?

A. Yes, sir, it did. We had a very hard time to keep the mills running. Could I say here I have had quite a lot of experience in raising boats, and when the Lurline was sunk, they came to me for advice, and also when the Elmore was sunk.

Q. And did Captain Crowe know—have knowledge of what your charges were to be and were?

Mr. MINOR: We object to what Captain Crowe knew as incompetent and irrelevant.

A. Yes, sir.

Mr. C. E. S. WOOD: I will state I am putting this in for a double purpose; first to show the approval of a man of experience; and secondly, if the Insurance Company has an interest in this suit, I would hold that they were bound by Crowe. Go on make your answer.

A. Captain Crowe knew what we were charging, and said the charges were reasonable.

Mr. MINOR: I object to what Captain Crowe said as hearsay.

A. They worked night and day.

Q. He said this to you personally?

A. Yes, and also a report.

Mr. MINOR: Move to strike out as hearsay.

Q. Report to whom?

A. Report that Captain Crowe made out. He put that on the report.

Mr. MINOR: I object. The report is the best evidence.

A. Report to the insurance people, and I suppose—I don't know—he gave us a copy of it. I suppose it was signed by himself and Mr. Honeyman and Mr. Carstens.

Q. Have you a copy signed by him?

A. No, sir; I have not the original, but a duplicate.

Q. Now, after you got to the dock, you said you expended, as I remember, about \$800. in cleaning her up.

A. That is, in cleaning her up, and taking the machinery out, and putting on the dock so as to get the old hull so she could be launched and go on down to the shipyard.

Q. Was that necessary work?

A. Yes, sir, it had to be done. They couldn't hold the boat on the ways. They had other work to do, and she had to be moved.

Q. Was this a reasonable charge?

A. Yes, sir.

Q. Are those sums that I have alluded to, the \$8,000. which was for bringing her up to Portland, and the \$800. for cleaning her up and getting the machinery out, etc., included in that expense of twenty seven thousand?

A. No, sir; no, that is separate.

Q. So that, treating the new Henderson as, in a certain sense a rebuilding of the old Henderson, you added these expenses to that, did you?

A. I didn't quite understand you then.

Mr. ERSKINE WOOD: You added these expenditures of eight thousand and more and eight hundred to the twenty seven thousand or more?

A. Yes, sir; that would have to be added to get the cost.

Q. Now, then, what total did that make, in round numbers?

A. That would be something over thirty six thousand, about thirty seven thousand, I think.

Q. This was over eight thousand dollars, bringing her up to Portland?

A. Yes, sir.

Q. And over \$800?

A. Yes, sir, and over twenty seven thousand, which would be something over thirty seven thousand dollars.

Q. So that all the items that I have mentioned, added together, in round numbers, would be about

thirty seven thousand dollars?

A. Yes, sir; that is money that we are actually out.

Q. Now, do I understand that for \$37,000. you got the new Henderson, when you said that the old Henderson was worth forty five thousand at the time of her destruction? In other words, that you could get a boat—wait, I will ask you this: How does the new Henderson compare with the old in dimensions and character?

A. Well, the hull is about the same, the cabin is a little different.

Q. Which was the better cabin?

A. The old Henderson. Would perhaps be \$500. difference.

Q. Would you call the boats substantially of the same character?

A. Yes, sir, about the same.

Q. Well, my point is this: Up to this point, it would look as if you got just as good a boat as the Henderson, and new, for \$37,000.

A. Well, the salvage would be added to that.

Q. That is what I want you to explain.

A. That is, we got her for that by taking and using all of the old Henderson that we could.

Q. State what articles were used.

A. We used the engines, shaft, pumps; they were broken up some; rudder stocks, stem iron, oil tanks; they were mashed up considerable; all the connections broken off, but we used the tanks themselves; and the

boiler we used in the Cascades.

Q. Used as you have described?

A. Yes, as I have described.

Q. The equivalent of putting the boiler—it was the equivalent of putting the boiler in?

A. Yes, sir.

Q. Gave her credit for the net value of the boiler?

A. Yes, sir.

Q. That is, you only charged the cost of repairing the boiler?

A. Yes, sir, that is all; the boiler and the steam pipes.

Q. Now, then, to get at it in a short way: This \$37,000, would represent the equivalent of rebuilding the old Henderson, except that you discarded her hull as worthless, and rebuilt from the beginning?

A. Yes, sir.

Q. Now, there has been something said about that hull, that you got the benefit of it, on a barge. I wish you would explain about that.

A. Why, we had to get rid of the hull in some way, couldn't keep it at the shipyard, and it was good enough to make a barge for certain uses, and it would cost something to take it and burn it up and destroy it, so we had it repaired at an expense of about \$1800., and we had it fixed so that we could launch it, and we launched it and took it to our yard at East Davis street, and since then we have put a workshop house on it, and expect to transfer our machinery on it, and use it.

Q. Use it for what?

A. Use it for a workshop. At that time, when we had it on the ways, after it was put in shape, I offered it to Mr. Kern for \$2,000.

Q. How much did you say you had spent putting it into shape?

A. \$1800., over \$1800. And he thought that he might be able to fix it up for a barge, and found out, I believe, it would cost too much.

Q. What do you think under all the circumstances, considering that you had to dispose of it in some way, the net benefit to you has been in using the old barge?

A. Well, we would have sooner had the money than to have paid it out, and we had no real particular use for it ourselves. We already had a workshop.

Q. Well, do you think you have had any benefit out of it?

A. Well, I suppose a little benefit.

Q. How would you rate it in dollars?

A. Oh, I am satisfied that it couldn't have been sold to anyone for \$2,000. before the house was put on it.

A. What would you rate the benefit to you in dollars, net?

A. Well, I should say a couple of thousand dollars.

Q. That is, that was the net benefit of your having the old hulk.

A. I don't mean the way she is now, with our

house on, and repaired.

A. I mean the way it is now, when it was repaired. We have repaired. That is what I say—after repaired.

Q. No, I don't mean that. What was the value of that old hulk as it lay there, before you did anything to it?

A. Well, I don't think it had any value. I don't think it could have been sold for a hundred dollars before it was repaired.

Q. That is what I am trying to get at—what was its value then? You say before you put the house on it, and the added expenses of \$1800. on it, you don't think you could have sold it for \$2,000?

A. Yes; I offered it to Mr. Kern.

Mr. MINOR: Before you put anything on it?

A. No, after it was repaired.

Q. Are you sure that when you offered it to Mr. Kern for \$2,000. that the hulk itself had been repaired, or were you offering the hulk as it lay?

A. No, after it had been repaired.

Q. After you had put in the \$1800?

A. Yes, sir, after it had been repaired.

Q. As I say, after you had expended \$1800. on it?

A. Yes, after, yes.

Q. You were offering it then for a net profit on it of \$200?

A. Yes.

Whereupon proceedings herein were adjourned until 2 p. m.

Portland, Ore. Thursday, May 22, 1913, 2 p. m.

Captain J. W. Shaver resumes the stand.

Direct Examination continued.

Questions by Mr. C. E. S. WOOD:

Captain Shaver wants to make a correction in part of his testimony before the recess.

A. I want to change something. In talking to Mr. Kern and Mr. Nelson at the noon hour, I find that I was a little mistaken in the time I offered the old hull to Mr. Kern for \$2,000. It was after we had started to work on her, but there hadn't been very much done on her yet. When I talked with Mr. Nelson, it kind of reminded me when it was, but at the present time, we would be willing to take \$2,000. plus what we have paid for the house that is on her at the present time.

Q. Then your proposition to Mr. Kern meant that he was to pay the bill for repairs?

A. Yes, sir.

Q. Or rather, he was to pay you \$2,000., which was to include the bill of repairs.

A. Yes; there hadn't been very much done on her then, and of course we didn't think it would take so much to repair the boat as it did. We didn't expect it would have cost anywhere near \$1800. or we wouldn't have had her repaired; but in strengthening her up, they had to put quite a lot of extra kelsons along the old kelsons, and new frames and everything; had to build her up quite a lot more than we expected.

Q. You did it by day's labor?

A. Yes, sir.

Q. Does that modify in any way, or alter your testimony, that that hull itself, as it lay there, was worth scarcely anything?

A. No, sir, I don't think it was worth scarcely anything. I don't think, in fact, I know, I am positive, it couldn't have been sold for a hundred dollars.

Q. Now, on this matter of construction of the new boat, I show you Libellant's Exhibit 28, and will ask you whether or not that was taken from the books under your personal supervision?

A. Yes, sir, it was.

Q. And have you checked over the amounts, and are they correct?

A. Yes, sir.

Q. Now, we are going to produce an itemized statement here of the work done in the salvage, and its itemized cost, but outside of that statement, you having already stated the lump sums, I will ask you whether anything was done that was not necessary, and, in other words, was all the work done necessary, and were the prices reasonable?

A. Yes, sir, as near as we could—as near as I could judge. I did it just the same as if I was doing it for myself, and the same as I have done before, this same kind of work.

Q. You were doing it for yourself, weren't you?

A. I guess so, yes.

Q. Have I asked you, captain, about the net value

of the salvage made? The value over and above the cost of making it? If not, just answer that, will you?

A. Why, about \$8,000.

Q. And what does that salvage consist of?

A. Well, that is the engines and pumps and shaft, wheel shaft and rudder stocks.

Q. Boiler?

A. Boiler.

Q. And have you answered as to what you think is the reasonable value of the Henderson at the time of the collision, with the equipment she had on board?

A. Well, I consider forty five thousand a very reasonable price, as far as we needed her, and in fact, need today. We need a boat of that kind.

Q. I think you have already stated it was in the height of the season?

A. Yes, sir, right at the busy time of the season.
Height of the water.

Q. I think that is all, unless there is something as plaintiff you want to say.

A. Do you want me to verify these charges of Johnston on this appraisement by Johnston? He claimed he got some of them from me.

Q. Oh yes. Mr. Johnston said that in making up his estimate, item by item of value, that he got the items from you—some of them from you. I will ask you to look at Libellant's Exhibit 25, and run those items over, and state whether they were on the boat at the time that she was lost?

A. You just want the equipment?

Q. Yes.

A. Well, the boiler cleaner was on there. That cost \$425. I am positive.

Mr. ERSKINE WOOD: I don't think we want to extend this record by going into that whole thing in detail.

Mr. C. E. S. WOOD: Maybe he can't answer in one answer what was there.

A. The reason I speak of this boiler cleaner, the other appraisement here, they put that in at \$215.00, I think. That was a much smaller amount, Crowe's appraisement, and Mr. Honeyman's I positively know it cost \$425. Three capstans. Three capstans were there; towing engine, cost \$850., built by Burt Hicks; donkey boiler, \$350. The donkey boiler was there, and that is what it cost, and was built a little cheaper than the regular price, on account of being kind of an experiment, in a way. She was the only river boat that had a donkey boiler on her.

Mr. ERSKINE WOOD: Captain, the specific question is: Were the items which you gave to Mr. Johnston as being on the boat, and from which you made up this estimate, actually on the boat at the time of the collision, to your certain knowledge?

A. Yes, sir, they were.

Q. Were they lost?

A. Yes, sir, they were lost, all, only what was mentioned as being saved.

Q. Now, in some cases, he said that you gave him the valuation on it, and he testified he exercised his

own judgement. What did you make up that valuation from, such as you gave him?

A. I made that from bills that we have, and for costs that I actually knew were right. I have a list of some of those in my pocket, and have a book that I keep costs on some things in, like lines, and certain things.

'Q. Well, considering the age of the articles, and the wear and tear, were those estimates, in your opinion, reasonable? Were these estimates reasonable?

A. Yes, sir; yes, sir, they were always kept up in good shape, and some things there is very little wear and tear to, and when that had to be renewed, was always renewed. The boat was kept up in first class shape in every way, both machines and boiler and pipe, and everything in general.

Q. I don't want to duplicate this, but I am not familiar enough with this list myself. I show you Libellant's Exhibit 26, which is a list of some things testified by Johnston, amounting to some \$1500. total and ask you whether they were on the Henderson at the time of her loss, and were lost?

A. Well, on this list, the anchors they were saved, and this tow block and gear were saved. That was the only two, I think, on the list we saved. There might have been one or two other little things, but that is all I see there particularly.

Q. Now, would you think that the value of that list, as you look it over, the reasonable value, would be \$1500, or not?

A. Yes, sir, I do.

Q. When was the Henderson last painted, before her destruction?

A. Why, she was painted that spring. We paint our boats on the outside every spring, and inside we paint them about every two or three years. I don't remember exactly when she was painted inside, but on the outside, and the canvas was painted that spring.

Q. How often did you salt her, from the time of her construction?

A. Why, we didn't have any particular time for salting, but every three or four months they are looked through, and if there is any salt out of the boxes, it is put in. We keep salt on the dock all the time, and keep salt on the boats all the time.

Q. Was she in fact kept continuously salted?

A. Yes, sir, she was.

Q. And was she well hosed down, her woodwork?

A. We don't wet her down so much, but we keep salt in all of the time. Her salt boxes we always keep salt in them.

Q. How recently before her destruction, had you personally been over her?

A. You mean in the hull?

Q. Yes.

A. Well, I couldn't positively say. I go down through the holds quite often, but I couldn't say positively how long before that.

Q. Be within the year?

A. Yes, every three months anyhow, I am through

all of them.

Q. What was her condition as to rot, soft timbers?

A. Why, there was some few floor timbers that were soft, and that was about all. The kelsons were all in pretty good shape, and there were some kelsons back aft that was a little soft, I suppose, but about the only soft was in the floor timbers.

Q. How long was she good for, without general repair?

A. Well, I calculated we would run her until about this year, 1913, and then we would perhaps spend, well from \$2500. to \$3000., and she would be good for six or seven years more, put in new cylinder timbers, and new frames, if she needed it, and general repair to the hull.

Q. What was the last time you put any repairs on her; that is anything worth talking about , any amount?

A. About the last of 1909. I think it was in October.

Q. What were those repairs?

A. We spent about a thousand, a little over a thousand dollars on her then, and did what was necessary. I don't know exactly what it was, but there was no rotten planks then, or no rotten frames, mostly deck work.

Q. According to your experience,—after you spent the thousand dollars, was she in complete shape, good shape?

A. Yes, sir.

A. According to your experience, if a thousand dollars spent at her age would put her in good shape, what would that indicate as to her original character as to a good boat, sound?

A. Well, that is a little owing to when you do it. Of course, after a boat gets about ten or twelve years old, you will have to do some work on the floor timbers, and perhaps kelsons, and work like that, a thousand dollars wouldn't fix her up in good shape. But when they don't need much hull work, and frames and kelsons, and floor timbers, why a thousand dollars would do quite a lot with little jobs around. At that time, there were no rotten frames in her—no floor timbers.

'Q. Now, she was approximately ten years old?

A. Yes, sir.

Q. And you built her; that is, you had Johnston build her?

A. Yes, sir.

Q. And owned her continuously?

A. Yes, sir.

Q. I will ask you if, in that time, you kept her up in good shape, as to wood repairs and metal and paint, and whatever was necessary?

A. Yes, we did.

Q. Everything that was necessary?

A. Keep all of our boats in that kind of shape; that is, in first-class shape; both machinery and everything in the boat, I know were good, because we keep them good all the time.

Q. Had the steam ever been cut down on your boiler?

A. No, sir; my boiler didn't have to have any repairs made to it after the wreck, except what damage was done to it on account of the wreck.

Q. What was the size of that engine? Was Johnston right about it?

A. Eighteen inch cylinders, and seven foot stroke.

Q. By cutting down the steam, or cutting down the boiler, you don't mean doing anything to the boiler, but the pressure of steam she is allowed to carry, is reduced by the inspectors?

A. Yes, sir.

Q. That is what you mean by cutting down?

A. Yes, sir; usually after a boiler is used, oh, ten or twelve years, if there is nothing the matter with it, they usually cut it perhaps five pounds. Then maybe in a couple of years more, they will cut it. We had a boiler we took out of the Cascades that was thirty years old. Of course, it was built for the Government, and we don't know what steam it was allowed when it was built, but it was allowed 120 pounds when it was taken out. We also have another boiler that is 21 years old, has been cut down 15 pounds. We also have a cabin on the Beaver, a boat that we are interested in, which is a boat that is 24 years old; and I know of other boats that has got cabin and house on them that are 35 years old, both the lower house and the upper house; and the Dixon's house was 21 years old when she was wrecked. The Cascades'

engines are 30 years old—31 years old.

Cross Examination

Questions by Mr. GUTHRIE:

Captain Shaver, I don't believe I recollect your saying how long a life a hull should have of a boat like that.

A. How long a life?

Q. Yes, the hull.

A. Well, if you don't do any repairing, it would perhaps last 12 of 15 years, but if you keep them repaired, they will last for—well, the Lurline's hull, a good part in it, is 35 years old. She has been repaired several times.

Q. I understood you to say that the M. F. Henderson had had but one repair in 1909.

A. I don't say she had only one repair. That was the last repair.

Q. That was the only considerable repair that she had had?

A. Yes; yes, sir. We have a good part of the steamer No Wonder, and the hull is over 20 years old.

Q. You didn't consider this hull after the accident, and when she was drawn up on the ways to have any real value, appreciable value. About \$100. I think you say.

A. I say I don't think she could have been sold for \$100.

Q. Then you would consider the hull loss to have been practically a total loss?

A. Yes, sir.

Q. By reason of the accident?

A. Yes, sir. Of course, if some one would have use for a hull like that, she could be straightened up like she is now, and she would be of some value if a person needed her.

Q. You have had considerable experience in boats of this sort, and I understood you to say it was your best opinion it would be lacking in economy for you to have rebuilt your new boat over this hull?

A. Yes, sir.

Q. Did you ask any bids at all on the repair of the Henderson, by rebuilding over this old hull?

A. Did we ask any bids?

Q. Yes.

A. No, sir. If we have work done of that kind, we always have it done by day's work, because you take an old boat, and it is hard to tell until you get started into them, what has to be done.

Q. Did you have survey made of the hull by any surveyors in port?

A. No, sir.

Q. Did you have a survey made of the salvage in any way?

A. No, sir, we did not.

Q. Did you have an itemized list of the salvage made and submit to any man who had personal knowledge of the items themselves?

A. Did I myself?

Q. Did you submit the items?

A. No, sir, I did not.

Q. To the surveyor?

A. No, sir, not myself.

'Q. Then your ideas that you have testified—your ideas respecting the values of the salvage being about \$8,000. are generally your own opinion?

A. Well, not altogether. Captain Crowe spoke to me quite a few times, and consulted with me, and said that he was appraiser for the underwriters, and talked things over quite a number of times, and some things we agreed on as to prices, etc.

Q. Then you have no information from any of these surveyors, as to the value of this old hull?

A. Only in talking to Captain Crowe and Mr. Honeyman. No, we had no one ourselves.

Q. Now, the hog chains, you say, were badly damaged, and the vessel slumped off about four feet by the stern, when she was brought up on the ways?

A. Yes, sir; one corner of her.

'Q. Now, do you know why, or how these hog chains, or hog posts were strained and broken?

A. Do I know how?

Q. Yes.

A. By the wreck, I suppose. I don't know what else.

Q. Done at the time of the wreck?

A. Most of them; some broken when we was raising her.

Q. You were present at the time this raising was going on? Almost continuously, were you not?

A. Yes, sir, all the time; never left there.

Q. Do you recollect some chains broke at that time?

A. Yes, some broke afterwards.

Q. Do you know the particular cause of their break, because of the method by which raised, or particular force being on some chains?

A. One chain broke by the derrick, when we were raising her. On the opposite corners, when we got there, before we touched the boat, the opposite corners forward and aft, the chains were broken, and at the other opposite corners they were hanging and when trying to straighten them up, we broke—those chains gave way altogether. But when the first chains gave way, that let the boat down.

Q. Do you recall whether, when they first started to raise this hull, the chains were so broken, the hull was badly out of true?

A. Couldn't say that, because the hull was all in the water. All we could see—you seen the picture, just a little of the hull, the beam end.

Q. Do you know whether or not, of your own knowledge, in raising the hull, these hog posts were so in the way that you felt it necessary to cut them in any way in raising the vessel?

A. No, we never cut them in raising her.

Q. Do you know whether, before she was brought up on the ways, it was or was not true that some of these had been hacked apart?

A. The chains?

Q. Yes.

A. Well, they might have been sawed after the chains was all gone and doubled up; they never was any chains that had a strain on it in any way. They all fell down, and we had to saw a few chains, for instance, to get it out of the way, so we could get a barge alongside. But we never sawed them when we had a strain on them.

Q. Now, the parting of these chains, whatever the method of their parting, of course accounted for the sagging of the hull, its going out of shape?

A. Yes, might have done some in raising her. In getting chains under a boat, you can't always get her, and get a strain even all along.

Q. Now, in raising the vessel down there, you secured, as I understood your testimony just before dinner, the sawing of some timbers by the Eastern and Western Company, which were used in passing from one barge to the other, by which she was held up in the water to be towed to Portland?

A. Yes, sir.

Q. As I recollect seeing a bill of something like three or four hundred dollars of the Eastern and Western Company here?

A. Yes, sir.

Q. Do you recall what was done with those timbers after the vessel was brought to the ways?

A. Yes, sir.

Q. What was done?

A. They were taken back to the mill, and some of

the larger ones they sawed up, and gave us credit, and some of the others were lost, and some of the blocking was taken for wood. It wouldn't pay to take it back to the mill, and it was sawed up.

Q. Do you recall whether or not credit was given to the salvage account on account of this credit by the mill to your account?

A. Yes, sir, I think that was. It was on Crowe's report. I don't remember seeing it on our bill at all.

Q. I don't recall seeing it. That is why I asked you.

A. I don't think we had it on our bill. I don't remember seeing it. It is on Captain Crowe's, and Mr. Honeyman's report, but I don't think we charged it at all on our report, our statement here.

Mr. C. E. S. WOOD: Didn't charge it even?

A. I don't think we did. I don't remember seeing it there. It may be there, but I don't remember.

Mr. C. E. S. WOOD: Do you understand him?

Mr. GUTHRIE: I understood him to say that the one Captain Crowe made included the credit, but he didn't think it was in his bill.

Mr. C. E. S. WOOD: He went on to say he didn't think either a charge or a credit. Didn't think it appeared at all.

A. Yes, it is here. Eastern and Western Lumber Company, \$386.15. They took the large timbers there and kept them for quite awhile. Then they sawed them up; as they could sell the lumber, they re-sawed them. I don't see any credit on here. I don't know.

Q. And you don't know whether the \$386.15 is a gross or a net bill on that?

A. No, I don't.

Q. I think it would be well if we know it before this examination is finished, so as to show what credit was given.

A. The credit is something over a hundred dollars, I think; I don't know whether taken off this or not.

Q. Now, Captain Shaver, in the salvage itemization, I see charged against the salvage account, matters of wages, including not only wages to yourself, but also wages to other men. Now, can you tell me whether or not these matters of wages, not specially accounted, as for divers, etc.—were wages that were paid especially on this account, or whether or not these were the regular salaries that some of your men were drawing at the time?

A. I don't know what you mean by special account exactly, but my wages—of course, I went there, and I stayed right there, and I worked that time, and my wages were charged up, also my brothers, and two men we have at the yard.

Q. Now, what is your official capacity with the Shaver Transportation Company? Are you the president?

A. No, sir, general manager and secretary and treasurer.

Q. And you draw a salary annually?

A. Yes, sir, \$350 a month.

Q. Now, in drawing your regular salary, you are expected to look after these matters generally, whether it includes raising a vessel through accident, or whether it includes purchase of a new vessel, aren't you?

A. Yes, sir, if it was for ourselves. Of course, in a case of this kind, somebody else's fault, we would expect them to pay.

Q. The point I make, it is part of your general duty to look after these things?

A. I think in this case we only charged about one-third of our wages; I don't remember exactly.

Q. About one-half, I think. You have \$96.75 for fourteen or fifteen days' work.

A. That wouldn't be half.

Q. That would be about half of \$350 a month.

A. At the shipyard, charged \$100 on my wages, and \$100 on my brother's.

Mr. C. E. S. WOOD: If we may interrupt, we might put that item in the record. How many days were you engaged in raising the salvage?

A. 14 or 15 days. I forget. It is on the report there.

Mr. C. E. S. WOOD: I didn't know it was on the report.

Mr. GUTHRIE: Fifteen days seems to appear for some boats, and fourteen for the Echo.

A. From the 22nd to the—

Q. There are wages here, Captain Shaver, for E. A. Tabor, and J. C. Wendall, and E. S. Harlow.

A. E. S. Harlow is our man over at the yard, our ship carpenter. Of course, if he does work on any special boat, outside of the little ordinary repairs, that is charged up to that boat. Of course, this particular case, we will have to charge to the boat, or charge to the account some way. J. C. Wendall is our engineer there at the yard, and E. A. Tabor is a man at the office we took down there to run errands; go to Cathlamet or Clifton, or anywhere, so I wouldn't have to leave the boat. He attended to the commissary department at that time, and looked after the grub; of course we had a crew of 50 or 60 men there, and he had to look up the grub, and attend to that part of it.

Q. These men are regularly on your pay roll?

A. Yes, sir.

Q. And are they busy all the time, usually, in and about your yard and other places?

A. Yes, those two carpenters, or the carpenter and the engineer are busy all the time. They have some work to do all the time.

Q. Working on one job or another?

A. Yes, sir, and Tabor we took out of the office and took him down there, because we had to have a man there of that kind; in fact, he had to attend to the grub and things.

Q. Now, the charge that you made for the vessels of your fleet that stood by there, during all, or a portion of the time, was based, as I understand you, for the Shaver, the No Wonder and the Dixon at the rate of \$8.00 an hour?

A. Yes, sir; for the time they lost, not for the time they left Portland. If they were going to Stella for a raft, we would charge the time from Stella down and back to Stella. We worked these boats when the tide was right. We didn't work them at low tide. We just worked them when the tide would be high, so as to take advantage of it, and try to straighten the boats up. That is all we used them for, to try to straighten the boats up.

Q. Was it necessary to work at night on this work?

A. We worked whenever the tide was right. If we didn't work at night, we only got one tide, a day, so had to work when the tide was right.

Q. The Cascades you put in here at \$150 a day.

A. Yes, sir.

Q. And the Wauna at the rate of \$125 a day.

A. Yes, sir; those two were kept there all the time.

Q. Is that your usual charge, if any one were to have the use of your vessel, for a period of such a number of days? Fourteen or fifteen days. Would you charge \$125 for the Wauna, and \$150 for the Cascades?

A. Yes, sir; we wouldn't let them go any cheaper, especially that time of the year. Of course, if they go on some easy job somewhere, we might.

Q. Now, Captain Shaver, when you had Mr. Tabor, Mr. Wendall and Mr. Harlow on your regular pay roll, working regularly for the company, you had down there off Bugby Hole, the steamer Wauna, the

steamer Cascades, and the steamer Echo, practically all the time?

A. Yes, sir.

Q. And for a fair share of the time, you had the Shaver, the Dixon and the No Wonder, when the Henderson was trying to be raised; you had practically your whole fleet there. Don't you think that you shouldn't, when you were making a fair charge for the services of your fleet, don't you think you should not have added extra charges for your men who are ordinarily busy, for doing work for your company which pertains to your whole fleet?

A. No, sir. I think we should charge. I never seen anybody do business in the right kind of shape, and not paid.

Q. Don't you think you got paid when you put your fleet down there?

A. No, sir, it don't belong to the fleet. When we lease a boat out by the day we lease the crew out with it; don't take outside men.

Q. True enough. The point I make is this: These men were working for you, and their services take, whether in repair, or whatever else it may be, all the time. Now, if your entire fleet is rendering a return to you at the rate here of \$8.00 an hour, or \$150 a day on some others, your entire fleet is employed, and these men are employed?

A. As far as the fleet employed is concerned, we needed them pretty bad somewhere else. We didn't want them there.

Q. That may be true. But you have made a charge for the fleet, and shouldn't have added time for your men at the same time.

A. I differ with you then, for I think we should have charged for them. We might say, we might put fifty extra men on there.

Q. No, that is a different thing.

A. Suppose we took the office force all out and stopped business.

Q. I admit there might be something in your contention, but it seems to me if they are your regular men, and you are getting the whole of your fleet—

A. As far as the fleet is concerned, you can't count that. We wanted the fleet, we needed them bad, and I had a hard time to get them when I wanted them.

Q. I assume you had charges for them.

A. I can show you charges where we get \$10 an hour on these log rafts; where we work 24 hours, and get \$10 an hour.

Q. Now, the matter of board furnished down there. You made charges for that too, haven't you?

A. That was for the extra men, yes, sir.

Q. Just for the extra men?

A. Like Dofflemier had. I forget how many men, his crowd. Five or six men, and these men, Mr. Wendall and Harlow, we don't board them—Tabor. We charge extra board for these extra men, not for the boat crew at all.

Q. Now, you paid the Oregon Round Lumber Company for their barges, derrick, etc., about \$460,

according to this, and you paid Robert Wakefield \$255 and some cents. Was there any opportunity to secure bids by other men for furnishing the barges for that service?

A. Why, I suppose there was, but my experience in raising a boat, the quicker you get there the better, and I never ask for bids. If I get a barge that I think or know is a good, first class barge, and the price is reasonable, I wouldn't lose a day asking for bids for barges.

Q. That all goes to the reasonableness of the charge.

A. We got that lumber aboard and was down there the first day, inside of 24 hours.

Q. Now, what do you think is a reasonable charge for the use of a barge, per diem?

A. Why, they have a regular price, I think, \$12.50 a day, I think for barge and man.

Q. Now, these bills that were given you, both by Mr. O'Reilly's company, and Mr. Wakefield's company, are at the rate of \$15 a day. I don't understand there to have been any man connected with it, or your bill doesn't show that.

A. The Oregon Round Lumber Company, when they let a barge go, they won't let a barge go without a man with it. They let the Siwash and the Owl, and some of those, but the Ocean and that class of barges, they won't let them go without a man goes with them, and Wakefield had an engineer, and this engineer, he charged for all extra time. I guess he is a Union man.

I don't know. Anyhow, he worked so many hours a day, and when he works over that, he charges extra time. He has got it reduced down a little, but we couldn't do much. I forget whether he had a fireman or not. It seems to me he had two men, but I am not certain. He had an engineer, and I think a fireman. I am not real certain about the fireman, but I think he had a fireman too. But the way their bill was so much, they got in the extra on there. They had to stand by. I think one watch the engineer stood by all night, so he charged extra time. And whenever he had to get up night time and work, he charged extra time for that.

Q. Now, if you were—had a piece of business with people, so that you contracted the use of one of your vessels for a number of days; let's say the Cascades, at a rate of \$150 a day, and in connection with that business, it became necessary for you to give some personal attention to it, you wouldn't also include your salary for that time would you?

A. Well, I wouldn't take all of my time.

Q. Suppose it was necessary, you had to take a couple of days.

A. We wouldn't work on a job of raising a boat, I tell you.

Q. Well, if it came up regularly in the course of your business to look after this business.

A. Some little thing, certainly.

Q. If you got \$150 a day for the use of a boat, you wouldn't expect to charge your salary in addition to

that?

A. I wouldn't expect to leave my office and let other business go, and stop the business. We had to take all of our men, pretty nearly, from the office. Only left one man to attend to business.

Q. The question seems to be this: Whether or not it was necessary to use the extra men in event of extra work. If there had been extra men, I can see where you might be entitled to extra compensation, but if done with the regular force of men, it doesn't seem to me, Captain Shaver, you should expect to add extra compensation on account of this overseeing.

A. Well, overseeing a boat, and overseeing raising a boat, is very much different. If you get back of one of them wrecks, if you take any interest in it, and look after it any, you feel the effects of it a little bit. It is not like going out on a boat, and looking after things a little bit.

Q. By this statement, the Echo, the Wauna and the Cascades were there nearly all the time?

A. Yes, sir, we kept the Echo for running to Cathlamet and over to Clifton, and she ran up to—

Q. Did the little jobs around?

A. Yes, sir.

Q. The Echo was charged at the rate of \$30 a day?

A. Yes, sir.

Q. Do you think that reasonably worth \$30 to run to Cathlamet and Clifton?

A. Might not be for the trip, but we had to have a

boat, and thought it was just as cheap to get her as it was to go and hire a boat to do that work. This boat had some power to do something. We even had to send her to Portland once, sent her up one night for something, I forget what. She was a boat that could do anything we wanted, and if we hired a launch we would have to hire a little launch, \$15 or \$20 a day. We had three men on this boat we furnished. A little launch could be hired for \$10 or \$15 a day, maybe \$20, and furnish one man. Of course these men worked when they were not going on some trip. They worked on the barge, helped to raise, helped to do all kinds of work. In fact, we had no men there that didn't work. Everybody that was on the job worked, the captain, pilot, mate and everybody helped—took a hand the same as anybody else.

Q. While your fleet lay there, the Wauna and the Cascades, they stayed there all the time, did they? They didn't go up and down the river and leave the wreck?

A. No.

Q. If that is true, they didn't burn much fuel while laying there, did they?

A. No, not awful much fuel.

Q. Then a rate of \$150 a day, with fuel burning, would be considerable less profit than if laying there all day.

Mr. C. E. S. WOOD: I think that that is an improper objection to be made by the Standard Oil Company.

A. We ran out of oil. We had to get oil from other boats. We didn't charge, however, time of them bringing down the oil. If we didn't do that, we would have to send boats to Portland or Astoria to bring oil. We used the oil on board, and we charged for the time of the other boats laying there, putting oil on board, but we didn't charge for time bringing oil from Portland, or putting it on in Portland.

Q. As a matter of fact, these two boats weren't of necessity using much steam while lying there?

A. Not a great deal. We done quite a bit of moving, and every tide we worked and pulled the boat, every tide, I think; don't think we missed a day of actual use; so we were in actual use about half the time.

Q. Is the same thing true of the rest? I notice some of the captain's reports here show where the Dixon and Shaver lay there for six or seven hours. Some times, only a portion of the time they were worked; it wouldn't have been necessary for them to lay there under full steam?

A. No, they never laid there only when working, unless an hour or so waiting for the tide. When we were through with them, we sent them away, for we needed those boats.

Q. I see where one came in about 3:15 in the afternoon and left at nine the next morning.

Q. Must have been working, or she wouldn't have been there, sure.

Q. Do you know what happened to the house,

whether she could have been salved and re-built, or had any value at all?

A. No, sir; no value. The house went off. Couldn't save it, and the furniture and everything went.

Q. Went out to sea?

A. I don't know where it went. We never saw it; and the metallic boat—we never saw the metallic boat. I don't know whether it sunk, or what became of it. The house, part of it, hanging on when we got down, but it was off—you can see the picture, the shape it was in. We got some stuff out of the pilot house, we got the pilot wheel, we got the compass. The compass, we paid \$7.00 to get it repaired.

Q. Some of those items were re-built in the new Henderson?

A. Yes, the \$7.00 bill is in there, and the pilot wheel, that was furnished with the boat.

Q. What does it cost to operate the Henderson a day—the old Henderson? What did she cost?

A. Why, a little owing to how hard you work her.

Q. Her average expense?

A. Oh, \$125 a day.

Q. She cost a little more than some boats to operate?

A. Well, if they are similar boats, yes. We consider her in about the same class as the Shaver and the Cascades and the Dixon—all about the same. Of course, if we have hard work, we can work the Henderson harder. She can pull harder than the others, that is all, but it takes more fuel when we work her

harder.

Q. Now, if the Henderson costs about \$125 a day to operate, what was the usual hourly charge that you made for the use of the Henderson when she was so operated?

A. Hourly charge?

Q. Yes.

A. We charge \$10 an hour for any jobs up to ten hours or so; for moving these log rafts, we have a minimum charge of \$150 for twelve hours or less and \$10 an hour for all over-time, and we have cases where we put in three or four hours, paying \$10 an hour, and we had one case where we put in twenty-four hours extra time, \$240.

Q. From your experience with the Cascades, about what was her daily operating expense?

A. About the same; all about the same.

Q. Don't vary very much?

A. No, sir; not without we work them harder. As I say, the Henderson will stand more harder work, and we can pull her harder and work her harder; then sometimes she burns more fuel, but to do the same work as the others would, she is just as economical on fuel as they are.

Q. Is it true the Henderson burns a good deal of fuel? Wasn't she a little extravagant on oil?

A. Not any more so than the oil boats.

Q. Are they all extravagant then?

A. You bet they are. When you pay eight or nine thousand dollars a month for oil they are burning

some.

Mr. C. E. S. WOOD: Have your questions, Mr. Guthrie, been addressed to the cost of oil alone?

Mr. GUTHRIE: No; general maintenance. But I understand generally the Henderson was rather a heavy oil burner.

A. You must have understood it wrong then. To do the same work, she is, if anything, lighter on fuel than the others, but as I say, she always does the hard work. She is the one that does the hard work if there is any to do.

Q. What does it cost to run the new Henderson, or do you know, from the time she has been operated?

A. About the same. We never figured it up. That is all owing to how they work, you know. About the same price.

Q. Isn't it true she operates more economically than the old?

A. Not that I know of. I don't know why she would.

Q. She has a new boiler, hasn't she?

A. Yes, but that wouldn't make any particular difference. The other boiler was plenty big enough, and never once, I guess, as long as she was running, had trouble in keeping steam there with wood or oil on her.

Q. This statement, Captain Shaver, that you had in when you were on the stand yesterday forenoon, which are just bare statements of receipts and money paid out, with respect to the Henderson for a period

of two and a half years prior to her loss; can you tell us whether or not the bookkeeper keeps a depreciation account, to which he charges off quarterly or annual, any depreciation charges to these boats?

A. No, sir, he does not.

Q. You don't carry a depreciation account?

A. No, sir, we don't carry any depreciation account at all.

Q. Do you, of your own knowledge, know in a general way, just what the paid out items should include in this statement, Libellant's Exhibit 27?

A. I don't think I could tell without I could take the bills.

Q. Well, perhaps I could put it this way: Does that include wages of your men operating these boats —does it include oil that is burned?

A. Yes, sir; wages, and fuel and provisions and repairs.

Q. Provisions for your boats, incidental repairs, license fees.

A. What license fee do you mean?

Q. Don't you have to pay a license fee every now and then, in connection with operating your boat? Each boat to do certain work, has to pay a certain license?

A. No. Pay a state license is all, a corporation license.

Q. Passenger boats have to pay licenses, don't they?

A. No, sir.

Q. I thought there was a nominal fee there.

A. No. And this includes everything, and the office force, and our man at the shop. For instance, if we have six boats, we take a sixth of that.

Q. Pro rate that equally?

A. And charge it to each boat, yes, sir.

Q. Charging your insurance with that?

A. Yes, sir.

Q. The insurance is added to each vessel too, is it?

A. Fire insurance, yes, sir.

Q. That is what I mean.

A. Yes. We carry the same amount of insurance on all of them, so we just divide that. Of course that could be taken separately, but it is so near the same; in fact, all the four larger ones we charge the same insurance.

Q. Do you carry any other insurance?

A. No, sir.

Q. In the nature of casualty?

A. No, sir. Oh, accident insurance, yes.

Q. That is charged in too?

A. Yes, sir; don't carry any marine insurance.

Q. Now, you say that you thought the Henderson, the old Henderson could have been kept running for about a year and a half longer, until 1913?

A. Yes, we would very likely have fixed her this spring, got her out before the high water.

Q. Did you intend to give her a pretty thorough overhauling this spring, if she had gone through?

A. Yes, sir; would have spent from \$2500 to \$3,000

on her.

Q. . . Most of that on her hull?

A. Yes. The only place we have to spend it. The house would last for years. There is only one place that rots about the house, and that is around the sills on the deck. That never rots so as to be renewed. The other part is kept repaired all the time, the sides of the house. Once in awhile we break a hole. That is repaired all the time. Machinery, very little repairs on that, but some; not much. That is kept up as we go along all the time. We line up the engines once a year.

Q. Now, generally I understand your value to be on the old Henderson, forty five or fifty thousand dollars?

A. Yes, forty five thousand anyway. She was worth more than that to us, because we considered her the best boat, and we really needed her.

Q. You consider the new Henderson the equal of the old?

A. Yes, sir; I think it is about the same. I don't see why it wouldn't be as good.

Q. The new Henderson has really cost you \$50,000?

A. Well, if we had to have everything new, she would have cost that.

Q. Yes, but the old Henderson wasn't a new boat.

A. No, but she was just as good as a new boat.

Q. Would have been for a short time; wouldn't have lasted as long as a new boat.

A. No, wouldn't have lasted as long, but would have been just as good; if we put those repairs on, would have been just as good as a brand new boat for six or seven or eight years. Wouldn't have been worth quite as much, but would have been just as good; make as much money.

Q. When you were estimating the value of the Henderson, what was your idea of charging for depreciation on account of the age of the Henderson?

A. We didn't charge off any depreciation; as far as we were concerned, the old Henderson was just as good to us as this new Henderson. Outside of spending this money we would have had to spend.

Q. I understand the special value to your company of the old Henderson, at the time she was lost, would be just as great as that of a new boat, but that wouldn't have meant she would have had the same market value, because she was an old boat.

A. As far as we are concerned, the market value, we didn't care about market value. We wanted the boat.

Q. But you are testifying here, as nearly as you can, to market value, if we can find what it was.

A. There is no market value, as far as that is concerned, no market value.

Q. That is one of the aims of this inquiry, to find out what she was worth at the time she was lost. You wouldn't think, for instance, that a sound young horse, four or five years of age, would be nearly of the same value, and not of greater value than a horse 15

years old, although the 15 year old horse might this year do as much work as the five year old horse, for the reason that five years from now, the 15 year old horse would be in the bone yard?

A. As far as that is concerned, we might be all in the bone yard. As far as the Henderson was concerned, she was worth as much to us, outside of the length of time, as a brand new boat, and as far as selling and market value is concerned, there is no market value, but we couldn't have sold that boat without somebody would have paid us a whole lot more than the market value, or a whole lot more than she was worth.

'Q. But, at the same time, if you found a buyer for that boat, he would take into consideration the fact she was ten years old?

A. Yes, quite possibly he would.

Q. And don't you think a fair estimate would be for you to charge off something for that age?

A. If we didn't want the boat, it would, but if we did want the boat, it wouldn't.

Q. She wouldn't have earned her value to you in the one or two years she would run; you estimate she was earning about a thousand or eleven hundred a month?

A. If we spent \$3,000 on her, and could get the use of her for six or eight years longer, it would have paid us better than to pay \$55,000 for a new boat.

Q. But you didn't pay \$55,000 for a new boat.

A. But we would if we had built a new one out

and out.

Q. Then, as I understand, the new Henderson, she is something of a hybrid vessel, between old and new. She has a good many new parts, and has some that have been used in the old?

A. Yes, sir.

Q. What difference, if any, do you make between the cost of the new Henderson and the cost of a new boat on that account?

A. Well, we would consider this one worth about as much to us as a new boat.

Q. Quite true. But she didn't cost what a new boat would have cost?

A. Of course, the most depreciation in a boat is the boiler. Taking the boiler into consideration, why, of course in five years from now, why, the boiler would perhaps begin to get cut down in steam, so it wouldn't be so good, but at the present time, the boiler never was cut down; was allowed just as much steam as when it was built.

Q. Do you know, Captain Shaver, what portion of the shipbuilding company's contract would cover the cost of the new hull, or the value of the new hull?

A. I don't quite understand you.

Q. What portion of the \$15,500 that was paid to the Portland Shipbuilding Company represents the value of the new hull? Do you know? Can you tell that?

A. Well, that covers the wood work, all the wood work.

Q. Well, they built the new hull for you, and put up the house?

A. Yes, hull and house.

Q. Can you state how much of that \$15,500 represents the value of the hull, and how much—

A. Oh, the hull; no, I don't know as I could. The hull would, perhaps, cost a couple of thousand more than the house.

Q. Then you think the hull might have cost eight thousand and the house seven?

A. Yes.

Q. Or eight and a half and say, seven?

A. Yes, something like that.

Q. Nearly?

A. Yes; of course, the hull would include the hog chains, you know, and that part of it—rudder stocks.

Q. Now, respecting the condition that the old hull was in, do I understand you correctly, when I say that I believe your testimony was to the effect that the hull, together with the damage sustained by the collision, was in such a state of decay that you didn't care, or didn't think it economical to rebuild her?

A. No, I didn't say that. The decay and twist that she had in her, and the hog, and the hole was in her, and the kelsons smashed up and twisted, why we didn't think it practical or advisable. You can see it cost \$1800 to fix her in the shape she was in, and they just fixed the hole in the side of the hull, and fixed the deck, and put an extra piece alongside the kelson and spiked them through, which, in the other way,

to make any job at all, would have had to be all new kelsons, and much more expense to put it in shape for a steamboat.

Q. You didn't ask for any estimates from any surveyors, or from any shipbuilders, as to what they could have put her back in as good condition as she was at the time of the collision?

A. No, sir, but I was satisfied in my mind they couldn't put her back without very big cost. We would have had to take all the kelsons out, and take the sheer-strake off and clamp-strake off, to put her in the shape she was, and lots of the planking.

Q. Do you know how many, or proportionally about how many of the frames and kelsons were softened, or at least beginning a little decay?

A. I think there were about, as near as I remember, about thirty under the boiler.

Q. How many would that be altogether—half of them?

A. No, no, not a quarter.

Mr. C. E. S. WOOD: I wish you would distinguish which were frames, and which were kelsons.

A. Well, the frames were most all sound. The decayed part was the floor timbers. The floor timbers are the part that runs cross ways of the ship, and the kelsons run fore and aft.

Q. Now, at the point where these frames and kelsons bear on each other, did you notice any evidence of decay?

A. Some little, yes, in places.

Q. About thirty of them is your best recollection?

A. About thirty; the top of the floor timbers were softened some, and there was other places where the kelsons crossed the floor timbers that there was some little decay under them, and also some back next the transom, a little part of the kelsons there was partly decayed.

Q. Now, Captain Shaver, if at the time this occurred, there was not more than a quarter of those so decayed, and there was also the damage caused by the collision, why, in your opinion, couldn't this have been rebuilt?

A. Because she was all twisted out of shape.

Q. Couldn't that have been straightened up by proper hog posts and new chains?

A. Well, as I say, you would have to hold it all together by the hog chains, which no steamboat man or any man in the business of that kind wouldn't do, because it is not the right thing to do, to hold a boat up on her hog chains altogether. And as I say, to have her in any kind of shape, and put her in shape, she would have had to have all the kelsons in aft new; taken out altogether, and the boat straightened up, and the kelsons put in new, and the sheer-strake taken off and put in new, and use a lot of planking, because whenever a boat is hogged and goes down, it strains all the spikes and bolts, and the oakum, and you never can get them in shape.

Q. Couldn't some of those have been re-fastened? Supposing they were strained, couldn't they have

been re-fastened, and put in just as good shape as before the collision?

A. No, sir, never. You can't get a boat in as good shape. We have a boat now, practically new boat, and broke her hog chains, and never can get her back and hold her in the same kind of shape, and when they go down four or five feet—

Q. From your experience on the river in the years in business, haven't you known of a good many vessels being so straightened up?

A. Not like this. Never seen one, no, sir; in 35 years on the river, never seen one like this straightened up. Have saw the house torn off, and the decks tore up, but never saw one hogged like this and straightened up.

Q. Now, I understood Captain Johnston yesterday, when he was testifying, to say that she could have been straightened in this case.

A. I say she could have been straightened up too, if you went to all this expense, took out the kelsons, or she could have been straightened up and held on chains same as now, but she never would stand to run and do the hard work, and hold up.

Q. The point I am principally driving at is this: If she could have been straightened up, and put in fairly good condition don't you think it would have been your duty—with the measure of damages in sight that may have to be paid on the part of this boat that you have libelled—to have rebuilt her?

A. No, sir. Would sooner pay the money out of

my own pocket, than go down the river with a boat humped up like that, and another thing, it would have cost more than half as much as a new hull to have done it.

Q. Now, you didn't get any estimates of the cost of that repairing, you say?

A. No, but I have had so much done that I know pretty well myself, without getting estimates. Somebody will go and patch your boat up, and not do the work in good shape, because they would have straightened her up and held her on the chains. That is about the way they would have done. We take quite a pride in keeping our boats in good shape, keep them looking well, and keep them up in good shape. That is one thing we won't do, run a boat that looks like an old barn.

Q. I don't dispute that. But it is the measure of damages, what we should pay, whether we should pay for the difference.

A. That is all I want, what is right. If the boat could have been put in as good shape as before, we would have been glad to do it.

Q. The items that were mentioned in the statement prepared as having been lost, are the only items of tackle that were not accounted for one way or another, either being used in the new Henderson or, like the boiler, having been put in the Cascades; that is, I mean, are there any matters of tackle or apparel of the old vessel not used in the new Henderson, but which you now have?

A. No, sir; no, sir. We also used quite a little stuff of the Dixon; the new Henderson used a lot of things never put in this statement at all.

Q. But there is none of the old Henderson's tackle that hasn't been accounted for?

A. No, sir.

Q. Either lost or used?

A. What do you mean by lost? It was lost down the river.

Q. Lost down to Clifton there.

A. Yes, but not lost since we got it up here.

Q. That is what I meant—lost at the time of the collision.

A. Yes, lost at the time of the collision, yes.

Q. Can you tell us about how much it cost to paint the Henderson at one of the spring paintings of the exterior?

A. Why, not exactly, but I could—the paint itself would perhaps cost about \$75. Of course, in painting a new boat, of course it is different. For instance, in painting a boat after she has run, the inside of the house, inside of the freight house, and places like that, is not painted every year, nor the ceiling overhead, but outside, and engine room and cabin outside, and decks and things like that is painted, and that is painted by the crew; usually the deck boy paints them. Painting a new boat will cost about \$1500.

Q. Now, in the estimate Mr. Johnston gave yesterday, he had the item of painting in there with re-

spect to building a new boat. About eighty per cent he would charge off for depreciation at the time of the accident.

A. Well, I don't see why he should. Him and me had quite a time about that, for I claimed at the time we kept our boats up. Now, though the boat was ten years old, the painting was pretty near as good as new. Him and me had quite an argument about that, but he stayed with it, and charged it off. I said he shouldn't have charged it off, and I don't see why he should. Of course, after you paint a boat a good many years, the paint gets a little thick, and sometimes you have to burn it off. But it has got to be painted quite a few years before that is done.

Q. Generally, Captain Shaver, you would think, wouldn't you, that the spring paintings, the annual paintings you give the vessel from time to time, is really a sort of insurance or preservation account, going to the preservation of your vessel? The most you do, you expect to take care of the vessel in as good condition as you can?

A. Yes, sir; and also for looks. I have seen boats going down the river here that I wouldn't own them if I could help it. Of course most of it is preserving the boats and keeping them in shape. It costs us to paint a boat at the shipyard between \$1400 and \$1500.

Q. Now, you have no estimates at all with respect to the salvage of this wreck, did you?

A. No, sir; as I say, Captain Crowe talked to me at different times.

Q. He never gave you an estimate, did he, what he would do it for—do the job?

A. No; oh, no.

Q. But your basis of determining about \$8,000 as a reasonable value of that salvage service was based on what you have paid—here, in making that salvage charge?

A. And also of Captain Crowe and Mr. Honeyman's appraisement, and things like that.

Q. Do you think it was necessary to use fifteen days in getting that boat up—reasonable time?

A. It surely was, you bet. We never lost any time we could help. Of course, this boat was a very hard boat to raise. We have got them up in six or seven days, but it was a strong current, and the boat was right cross ways of the current, and 27 feet of water at low tide. And we surely worked hard, and Captain Crowe was there quite a few times, and I talked to him different times; and he said he thought we were getting along as well as could be done.

Q. How much did you value that boiler at that you put in the Cascades?

A. Well, we never put any value on it.

Q. It was worth something?

A. Sure it is.

Q. It should be credited to the salvage account, shouldn't it?

A. Why, it was.

Q. I know. I want to know what your ideas are of its value.

A. That was in with the other. We had appraisement on the Dixon engine, and everything outside of boiler, of \$8,000, and we got this up to sixteen. That would be counting eight thousand for the boiler. Of course, the machinery was heavier and worth more, but I think the appraisement on the machinery was high enough.

Q. And you have no estimate made of the value of the salvage?

A. No, sir.

Mr. ERSKINE WOOD: The value of the salvage services, or the salvage?

Q. The salvage.

Questions by Mr. MINOR:

Captain, I want to ask you some questions. You spoke about trouble. If this hull had been repaired by holding up on the hog chains, that you only could have held her straight by holding on the hog chains. Do I understand that correctly?

A. Yes, sir; that is, what I meant by that is, to hold her and have the machinery in there and have the machinery work. Of course you can take that boat and jack her up and put her in shape, and re-spike her hull, and she would hold herself without machinery in, without any heavy work, like she is now.

Q. And on what did she hold up before the accident?

A. Both the hog chains and the kelsons.

Q. If you put new kelsons in her, why wouldn't

she hold up on the kelsons just as well after the accident as before?

A. I said if you took off all the kelsons, and took off the sheer-strakes and some of the plankings, then you could hold her up.

Q. Wasn't it possible to do that?

A. Yes, sir, I said it was possible.

Q. How many kelsons in the Henderson?

A. Five.

Q. Only five kelsons?

A. Five kelsons and the boiler kelsons.

Q. Five kelsons and the boiler kelsons. How many kelsons—

A. Two.

Q. Seven kelsons all together?

A. Yes, the boiler kelsons don't run the full length of her.

Q. I understood you to say thirty kelsons soft or rotten.

A. No, I don't think so. I said thirty floor timbers.

Q. Thirty floor timbers?

A. Yes, sir.

Q. And how many kelsons were soft or rotten?

A. There wasn't any that was soft and rotten altogether. There was some spots, some little spots—well, I don't know as any of the kelsons was rotten. There was some of the floor timbers under the kelsons.

Q. Were the kelsons rotten or soft?

A. Well, the principal part of them was solid.

Q. I say, were any of them rotten or soft?

A. Just some little spots where they go onto the floor timbers maybe would be soft. Outside of that, all were solid. Only just at the transom. There was some soft kelsons in that—some rotten wood in that.

Q. Had rotten wood in that?

A. Yes, for a short distance.

Q. What would be the cost of putting new kelsons in?

Q. In the boat?

Q. Yes.

A. You can't put new kelsons in very well, without tearing out part of the frames, or kelsons, or transom, something like that, to get them in. I don't know what it would cost to put new kelsons in a boat; would cost \$1500.

Q. \$1500.00?

A. Would cost more than that. Well, to take all of them out, and cut them out and put them in, would cost a couple of thousand dollars. To put other kelsons on top, you know, wouldn't cost so much to do that.

Q. Could you put other kelsons on top and serve the same purpose?

A. No, not serve the same purpose. After the bottom ones have been strained, strained downward, you never can get the same strength in putting them back.

Q. What were those thirty things that you say

were rotten?

A. Floor timbers.

Q. Floor timbers, were they?

A. Yes, sir.

Q. And they were the timbers that go how?

A. Crossways, athwartships.

Q. And the kelsons go?

A. Fore and aft.

Q. How many of those floor timbers are there?

A. How many floor timbers?

Q. Yes.

A. Well, they are spaced 22 inches apart, and about 160 feet long. That would be eighty, wouldn't it? About eighty, something like that.

Q. About thirty of those were rotten or soft?

A. Yes, thirty were soft.

Q. You say thirty of the eighty. How far apart were they?

A. Twenty-two inches.

Q. This boat, it seems here, was 156 feet long.

A. No, sir, 158, or a little over. A little over 158.

Very near 159.

Q. Now, Captain, you said that you offered to sell this hull to Mr. Kern for \$2,000?

A. Yes, sir.

Q. Did you offer to sell it to anybody else?

A. I don't remember of offering to sell to anybody else.

Q. Did you make any offer to sell to anybody?

A. No, sir.

Q. Except to Mr. Kern?

A. Never made an offer to sell to him. He was up there one day and we got to talking, and he said perhaps we might make a barge out of her, and he asked Mr. Nelson what it would cost, and then he said it would cost too much to make a barge out of her.

Q. You say it costs \$125 a day to operate the Henderson?

A. I think about that.

Q. Now, let me have your statement here. I notice here that during the month of January, 1909, you paid out for the Henderson \$2108.20.

A. Well, I don't know whether she run all the time or not. In January is usually a slack month.

Q. Well, in February it was \$2106.35.

A. Get along in June and July—what was it then?

Q. In July, it is \$2213.73.

A. She surely didn't run then all month.

Q. August \$2406.46. In September, \$2069.15.

A. Along in the winter months it doesn't cost so much.

Q. That is not winter months I am giving you, July, August and September, 1909.

A. In June what was there?

Q. In June \$3062.90, and in May there was \$2783.50. Indeed, except during the month of October, when you seemingly paid an extra sum of \$1031.80, to the Portland Shipbuilding Company, there wasn't a month during that year, except the one, where the expense run as high as \$3,000. Look at the

year I spoke of. I will take the others afterward.

A. No, that is the only—June is a little over three thousand.

Q. That is the only one where it ran as high as three thousand.

A. Yes.

Q. So during that year it seemingly didn't cost \$100 a day, did it?

A. No, it don't look like it did, no.

Q. Now, we come to the next year. In the next year, in July, the amount was \$2725.48; in August \$2850.51, and in September \$3173.71, and taking for the entire year the average for that year is not \$3,000 a month is it?

A. Well, it is \$34,000. That is a little over \$3,000 isn't it?

Q. No. There is twelve months a year in my calendar. I should say less than three thousand.

A. \$34,306 for the year.

Q. Less than three thousand for the month?

A. A little less.

Q. Now, take the year 1911, and average for six months. That is less than three thousand to the month, isn't it?

A. Yes, but that is the month she was wrecked in. You see June it cost \$3699. In May, \$3336. That is the two months just before she was wrecked.

Q. Do you know why it cost so much those two months?

A. No.

Q. What?

A. No, I don't.

Q. Then, if you wanted to tell how much it cost to operate a steamer, you would take it for a period of years?

A. I know; but you asked me why it cost so much those two months.

Q. You say you don't know. Seemingly there was some extra expense those two months, wasn't there?

A. There might have been. I don't know.

Q. Now, Captain, did she work as much, do as much work in 1909 and '10, as she did in 1911?

A. I couldn't say as to that without looking at the books to see.

Q. What is your recollection of it?

A. I don't have any recollection. I couldn't say about a thing like that. I suppose likely she did.

Q. Whenever she earned the most, she was working the most, wasn't she?

A. Most always.

Q. I note for the year 1909, you gave her average earnings per day \$38.79 per day. For the year 1910 you gave the gain per day \$38.90, and for the year 1911, you gave her gain per day \$21.42. So seemingly she was earning more the other two years than she was in 1911, wasn't she?

A. Well, there was awhile that we paid a dollar for oil, and awhile we paid sixty cents for oil which would perhaps make some difference. I don't remember what years. And again we paid eighty cents

for oil.

Q. Do you know why there should be such a difference in the cost?

A. No, not without looking it up, I couldn't say.

Q. Now, of what does the expense consist?

A. Can you give me that report? I can show here.

Q. You can tell me off-hand of what it consists.

Wages of the men?

A. Consists of wages and fuel and little repairs we have along, and oil.

Q. That is fuel, isn't it?

A. Yes. And provisions, I mean. That is about all. Always a little expense, you know, to pack them.

Q. Now, Captain, you say—

A. There might be some months the insurance would be in more.

Q. That is the reason I am giving you the average of it. I want to exclude the extra items. Now, in this time, in the year 1909, the cost per month was not quite \$2500 per month, was it? \$30,000 would be \$2500 per month, wouldn't it?

A. Yes, I guess that would be right.

Q. And in 1910, it was more than \$2500 a month and not as much as \$3,000 a month?

A. It was close to \$3,000.

Q. In 1911, for six months it would be \$2500 a month, wouldn't it?

A. It is more than that.

Q. Well, \$2500 for six months would be \$14,000;

that is, \$15,000.

A. Yes, sir.

Q. A little less than \$3,000?

A. Yes, a little less than \$3,000.

Q. Now, I understand that your other boats, the Cascades and the Weown, don't cost any more to operate than the Henderson?

A. No, about the same.

Q. About the same?

A. Not the Weown, the Shaver, you mean?

Q. I don't know which one you gave. I thought you said the Weown.

A. The Wauna doesn't cost as much.

Q. The others you said—

A. The Shaver and the Dixon.

Q. The Shaver and the Dixon cost about the same, you say, but no more?

A. No, about the same.

Q. You allege in your libel here that the Henderson earned net to you about \$30 a day. You recall that, don't you?

A. Yes, sir.

Q. If you are doubtful about it, I will show you the libel, but you are satisfied that was it?

A. Yes.

Q. It doesn't cost a hundred dollars a day to operate her?

A. No.

Q. The Cascades you said was not as good a boat as the Henderson?

A. Not worth as much, no.

Q. Couldn't do the work, you say; couldn't do as much work?

A. I said on real heavy work, we always put the Henderson, because she was the solidest, stoutest boat, heavier hull.

Q. You said the Henderson was the best boat you had?

A. Yes, sir.

Q. What you mean by best boat was earning most?

A. I didn't say earning most.

Q. Isn't that what you meant by being the best boat?

A. No, not always. Sometimes you can put a boat on a hard job, and she won't earn as much as on an easier job. The Henderson had a solider, heavy hull, heavier boat.

Q. Really the most profitable boat you had?

A. Yes.

Q. Now, the Henderson only earned \$30 a day, and didn't cost but a hundred dollars a day for a period of two and a half years. Why did you charge \$150 a day for the use of the Cascades down there?

A. Because that is as cheap as we can ever hire them out.

Q. In other words you take your profit at \$30 a day, and your operating expense, and put it at the highest figure, \$100 a day,—and don't these figures show it didn't cost \$100 a day on an average?

A. Yes.

Q. And you put \$20 more on this bill, do you?

A. Well, we put on that bill the cheapest we ever hire a boat out for; never make no cheaper.

Q. Then can you tell me why you undertake to charge these parties, against whom you are trying to recover, \$20 a day more profit than your boats earn?

A. Well, can you tell me why we should charge them any less than we do anybody else?

Q. I am asking questions, not answering, and I am not on the stand.

A. All right.

Q. I want to know why you charged \$20 more profit per day than you do for other work of the same boat?

A. Because that is the lowest price we charge anybody.

Q. You think that is fair, do you?

A. I think so. It is the lowest price we charge anybody.

Q. Now, I note that you charge on the Wauna \$125 a day.

A. Yes, sir.

Q. And the Cascades \$150.

A. Yes, sir.

Q. Why do you charge less on the Wauna than on the Cascades?

A. It is a much smaller boat, carries the same size crew, but is a much smaller boat.

Q. The Dixon and the Shaver, you charge them

by the hour?

A. Because they weren't there all day. They were just short jobs.

Q. Just there for the day, and you charged them by the hour?

A. Yes, sir.

Q. And \$8.00 an hour, you would be getting for these boats—

A. If it had been anybody else we would have charged \$10 an hour; irregular job.

Q. \$8.00 an hour you would be getting for these boats how much?

A. Would be lots of lost time in that, of course, if charged for 24 hours and kept the boat a long time. Pretty good price.

Q. I notice here you charged the Dixon 24 hours, or $23\frac{3}{4}$ hours, and you charge \$8.00 an hour.

A. And one time for 25 hours for the Shaver.

Q. And one time for the Shaver there was 24 hours you charged, and another time you charged $25\frac{1}{2}$ hours on the Shaver, but yet you charge them \$8.00 an hour.

A. Well, that is as low a price as we charge anybody. That is the regular price.

Q. Those boats weren't making more than \$30 a day on an average, and didn't cost \$100 a day to operate them?

A. We had a little lost time on steamboats. Of course, if we could put them out all month the year around, we could hire them out a good deal cheaper.

Q. What was the Shaver doing down there on the 22nd?

A. On the 22nd?

Q. Yes, of July.

A. The Shaver took the barges down. No, the Shaver on the 22nd—let me see. I don't remember now. I don't remember whether she took the barges down or not.

Q. Well, you charge for $17\frac{1}{2}$ hours that day?

A. I think she took the barges down, towed the barges down, if I remember right.

Q. Well, in addition to charging $17\frac{1}{2}$ hours for her that day, you charge also for moving a barge, \$5.00. What does that mean?

A. That was for moving a barge here in the harbor before we left.

Q. Why did you charge that to these people?

A. That is the regular rate for moving a barge. That is from five to ten dollars.

Q. Did that have anything to do with the wreck of the Henderson?

A. Yes, sir, we moved a barge from over here down to the Eastern Mill; that was before we started, different time. It wasn't charged in that $17\frac{1}{2}$ hours. That was done in the morning.

Q. Why did you charge that against this concern?

A. For the same reason we charged any—we had to charge any.

Q. That wasn't done for this wreck, was it?

A. Sure.

Q. The five dollars was?

A. Took a barge from the Oregon Round Lumber mooring to the Eastern mill to load lumber.

Q. Wasn't that a part of the 17½ hours?

A. No, sir, that was done in the morning, and we started down here in the night time; altogether separate.

Q. After you got back?

A. No, sir, before we started. That was in the morning, and we started down at night time. Likely we done a whole lot of work between the time we towed the barge and started down there; in fact, she towed two barges, I think, and only one charged there. She towed the derrick and barge, should have been ten dollars instead of five.

Q. How many boats did you have down there all the time you were doing this raising?

A. Three all the time; the Cascades, the Wauna and the Echo.

Q. What was the occasion of having three boats?

A. Well, the occasion was that we had to have boats there to try to ride her up when the tide was right, and we also had to have some place to board the crews of 60 men, or whatever we had there.

Q. You didn't charge in some of this for the use of these crews as a boarding house, did you?

A. It was all in that connection. We had the boats there to use when we wanted them, to help move the barges and to help work the boats inshore,

when we could.

Q. You took these barges down, didn't you?

A. Yes, sir.

Q. What did you do with them when you got them there?

A. We anchored them the first place.

Q. Where did you anchor them?

A. Out in the stream.

Q. Out in the middle of the stream, where the Henderson was?

A. Out in the stream above the Henderson.

Q. Where the Henderson was, or above it?

A. Above it.

Q. What did you do your work from—the barges or the boats?

A. We done it from the boats and derrick, anchored the barges there until we got the boats straightened up so we could put them alongside of her.

Q. How long did it take you to get the boats straightened up, as you say—the Henderson straightened up?

A. I think we were working about three or four days.

Q. Three or four days?

A. In fact, we thought we would have to give up the job, impossible to get chains under her, and impossible to straighten her up. That is the reason we had the boats there, to try to do that, and so much current below the Henderson, nearly impossible to

land a boat below her, so much whirls.

Q. Let me understand another thing. I understood you to say a part of the Henderson's deck was out of water?

A. No, I didn't say a part of the deck. I say a part of the hull and guard.

Q. A part of the hull was out of water?

A. The edge of it, just at low tide. 27 feet of water at low tide.

Q. What is the depth of the Henderson's hold?

A. Hold, or hull?

Q. Depth of the hold.

A. Seven and a half feet, I think, but she wasn't straight up. She was a little, or a little more than beam ends.

Q. Standing up on one end?

A. Right on her edge, side, standing up, tipped over a little bit more, and laying across ways of the current. 30 feet beam, I think. Thirty feet one beam, I think. And the guard was off the lower side, as near as we could tell. We never seen it. That picture will show you what kind of shape it is.

Q. The picture will show anything. I don't go a cent on a picture. I have seen the ugliest woman in the world look pretty in a picture.

A. This boat didn't look pretty to me.

Q. How much of a boat is this Echo?

A. The Echo, she is a gasoline launch, 125 horse power.

Q. What does it cost to operate the Echo?

A. Why, I don't know exactly. Perhaps—oh, I don't know. \$15 or \$20 a day.

Q. \$15 or \$20 a day. I thought you said you could have hired a boat like the Echo for \$20 a day.

A. I didn't say could have hired a boat like her. I said would have to pay \$10 or \$15 for a launch with one man on it. The Echo has three men.

Q. If you had one man and hired two more,—

A. But wouldn't have had such a launch as the Echo. We can do any kind of work with her; can tow rafts with her.

Q. Was it necessary for the work she was doing to have a boat with any such power as that?

A. Not necessary, but we had to have a boat, and I think it is cheaper and better to have her and these extra men than to put in a day hunting a boat.

Q. But you could have hired, for ten or twelve dollars a day, a boat that would have done the same work as the Echo.

A. Don't know as could have hired one.

Q. If you could have hired one, she would have done the same work?

A. Not altogether. Part of the time we used her for work some other boats couldn't have done. We sent her to Portland, and had her getting some logs there a time or two, when we had to put logs on the side of the barge, to keep the barges from going in too far.

A. You charged \$30 a day for the Echo?

A. Yes, sir—three men with her.

Q. What did you pay the three men?

A. Paid the captain \$90 a month and board; the engineer \$85 a month and board; deck hand \$50 a month and board.

Q. Then, say you paid them an average of \$80 a month and board, that is \$240 a month, isn't it?

A. Yes.

Q. Yes. In 15 days you realized from that boat \$450.

A. That is as cheap as we would have hired out by the day, \$30 a day. Of course, we didn't expect to stay 15 days when we went down there.

Q. You have seen lots of men around the street who wouldn't work for less than \$5.00 a day, but they weren't worth it. Now, let's go to another matter. As your company now stands, you have a boat which is new, the new Henderson?

A. Yes, sir.

Q. It is a boat which has the same power that the old Henderson had?

A. Yes, sir.

Q. It has a new engine on it?

A. Oh, no.

Q. New boiler, I should say.

A. That new boiler has nothing to do with this.

Q. I say, has a new boiler in it, instead of the old boiler.

A. That has nothing to do with this case; not a cent charged on that.

Q. I didn't say it was. I want you to answer my

question. It has a new boiler?

A. It has a new boiler, but no money charged up here on that boiler.

Q. I am not claiming there was, but it has a new boiler.

A. Yes, but I don't want the court to understand the boiler was charged up.

Q. I am not saying that.

A. I don't want you to say that.

Q. Everything in the new boat is new—

A. No.

Q. Except the engine and some other stuff?

A. All the piping and everything we could use from the old boat we used.

Q. So this boat, the new Henderson, is as good a boat as the old Henderson was?

A. Yes.

Q. And worth as much money?

A. Yes.

Q. Now, the Henderson, according to your own figures, fully equipped, cost you \$38,415.80?

A. By using old stuff.

Q. I say that is what it cost you?

A. By using the salvage, yes.

Q. That is exactly what it cost you?

A. Yes.

Q. Will you tell me why the old Henderson was worth \$45,000?

A. Well, we used all this old stuff that we could.

Q. That don't make any difference. I am talking

now about a boat just as good as the old one, and you say as good as the old one, and it cost you \$38,415.80? Now, will you tell me why you say the old Henderson was worth \$45,000?

A. Of course, might have cost us that much, but we lost a year and a half on that.

Q. We are not talking about the time lost now. Mr. Wood waives that question entirely.

A. I know we were not speaking about time.

Q. We are talking about the worth of the boat.

A. There's a whole lot of difference between the worth of the boat to us then, and now. We spent several thousand dollars hiring boats when we did not have her.

Q. But you are not seeking to recover for that?

A. I understand that.

Q. You are asking to recover for the value of the Henderson. I want to know why you say now, the new Henderson is as good as the old Henderson, and cost you \$38,415.80, and the old Henderson was worth at the time she was wrecked \$45,000?

A. She was worth it at the time she was wrecked, just as much as the other is worth \$38,000 now.

Q. Now, the only difference, as far as I can gather from your evidence, between the value of the new Henderson and the value of the old Henderson is that the cabin of the old Henderson was probably about \$500 more.

A. Yes, that is all; the only difference.

Q. And you claim the old Henderson was worth

\$45,000, and the new Henderson, with \$500 additional for cabin, was \$38,515.80.

A. Yes, sir, I claim the old Henderson was worth \$45,000, and was worth more than that to us.

Q. Now, have you a list of those lost articles you spoke of?

A. Yes, sir.

Q. Where is it?

A. It is on this list you have there.

Q. These items consist of stern lines, two stern lines, one head line, and one tow line?

A. Yes, sir.

Q. Now, were those lines old or new?

A. Well, I don't know. They might have been used, but we always keep them in good shape, and when old, replaced with new, so they couldn't have been very bad.

Q. Were they old or new? That is the question, it is easy to answer.

A. That is not an easy question to answer. I couldn't say whether new or old, but were good lines. I will say that much.

Q. Did you charge for them here, as old or new?

A. Charged as new, I suppose.

Q. Were they old or new then?

A. I couldn't say. I say they were good lines.

Q. But you don't know how old they were?

A. No, but I know were good, because we kept them good all the time.

Q. That may be, but you don't know how old

they were.

A. No, I don't know how old they were.

Q. Don't know how old any of them were?

A. No, but I know good lines.

Q. You have here two snatch blocks. Were they old or new?

A. Were not, perhaps, brand new, but good snatch blocks.

Q. Did you charge for them as new or old?

A. New ones.

Q. Why did you charge for them as new ones, if they were old?

A. Well, I don't think we would charge for them as junk, anything like that. We would have to charge as new. We wouldn't set a second hand price on them; they were just as good as new to us; just as good as if we bought new ones.

Q. You have six wire mattresses. Were they old or new?

A. Old.

Q. Did you charge as old or new?

A. New; just as good as new.

Q. You charged as new?

A. Yes, just as good as new.

Q. Six hair mattresses—old or new?

A. Old.

Q. Did you charge as old or new?

A. New. They were all just as good as new.

Q. Six bedspreads. Were they old or new?

A. Second-hand.

'Q. Did you charge for them as old or new?

A. New, I guess; I don't know.

Q. Here are six pillow slips. Were they old or new?

A. I couldn't say exactly, but they were in good shape, for we kept them all up.

Q. Did you charge for them as old or new?

A. I don't think he charged anything for them there. He charges, I guess, as old, is the way the bill looks to me. I think he made a mistake in that. It will also show in some place were not charged near as much as should.

Q. Here are twelve sheets. Were they old or new?

A. Second-hand, but he didn't charge as much as new ones.

Q. He didn't?

A. No, sir; they cost from fifty to seventy-five cents, and he charged them less than fifty cents.

Q. He charged \$5.64 for twelve.

A. That is less than fifty cents.

Q. What are they worth now?

A. Some place along fifty cents to seventy-five.

Q. What were they worth?

A. Perhaps about sixty cents value.

Q. Now, this donkey boiler you say new cost \$350.

A. Yes, sir.

Q. How old was it?

A. Well, just wait a minute, and I will tell you. It was put on there in 1908.

Q. So it was over three years old when the accident took place, was it?

A. Yes, sir, and it was built at a very cheap price, because it was a kind of an experiment, and he built it just as cheap as he possibly could build it.

Q. And you didn't allow any depreciation on account of that?

A. No, sir, just as good to us as a new boiler.

Q. There was one ballast tank. Was that old or new?

A. Well, I don't remember how old that was—perhaps three or four years old, but it is just as good as new, no depreciation at all on that.

Q. No depreciation on the tank at all?

A. Not on a tank like that, no. The ballast tank out at the bow.

Q. Here are six pillows. Were they old or new?

A. Second-hand.

Q. Did you charge for them as new or old?

A. New, I think.

Q. There is one dining room table. Was that old or new?

A. That was second-hand; been used.

Q. Did you charge for that as old or new?

A. New.

Q. Here is one pump. Was that old or new?

A. Old.

Q. Did you charge for that as old or new?

A. Charged for it as old. If you buy it new, it would cost five or six hundred dollars.

'Q. Here is an iron safe. Was that old or new?

A. That was old.

Q. Did you charge for it as old or new?

A. Charged for it as new.

Q. Here is one set of boat davits. Were they old or new?

A. They were second-hand—old.

Q. Did you charge for them as old or new?

A. Charged as new, because they would last a hundred years. No depreciation at all on them.

Q. Now, Mr. Shaver, nearly all of that stuff had been used for some time, and was what you might call second hand, wasn't it?

A. Yes, sir; but was worth just as much to us as new, just as good a shape as new.

Q. Wasn't worth as much in the market as new, was it?

A. No, but that wasn't in the market.

Q. That may be, but you were undertaking to make these people pay for it as if they had gone out in the market and bought new.

A. Yes, sir; because it was worth that much to us.

Q. But it wasn't worth that in the market?

A. No, I suppose not.

Q. How much was it worth in the market?

A. I don't know anything about it. Of course, to put that stuff up to sell it, you perhaps wouldn't get half price for it, but it is worth just as much to us as new stuff.

Mr. MINOR: Mr. Wood, do I understand we are

to have a statement showing exactly what all those items are for?

Mr. C. E. S. WOOD: Of the salvage. That is the new construction of the Henderson you now have.

Mr. MINOR: You are not going to have anything on that?

Mr. C. E. S. WOOD: No.

A. We have all the bills here, if you want the bills.

Mr. C. E. S. WOOD: He means what we promised to bring in. If there is anything in there that you want further information on, we will check it up and bring it.

Q. In the cost of the new Henderson, you have put in all of the articles—I don't mean the same articles, but the same kind of articles as those which were entirely lost from the old Henderson, haven't you?

A. Yes, as near as we can tell.

Q. And you charge in this statement of the value of the new Henderson, exactly what you had to pay for them, haven't you?

A. Yes, sir; of course we have the bills to show for that.

Q. I understand you have, but I say, you charged the prices you paid for it?

A. Yes.

Q. Now, this includes, among other things, certain furniture, doesn't it?

A. Yes.

Q. That includes certain new furniture?

A. Yes.

'Q. Those articles are the same kind as those I have just been reading to you, are they not?

A. How do you mean?

Q. For example, table?

A. Yes.

Q. Mattresses?

A. Yes, sir, yes.

Q. Things of that kind?

A. Well, no, they are not as good this time.

Q. That may be, but I say it is exactly the same kind of stuff.

A. Not exactly the same kind of mattresses. The hair mattresses, both on the Sarah Dixon and the Henderson, cost more than the other boats, and cost more than the ones put in her. The hair mattresses, I mean, are better mattresses than we have in now, but we charged the price we paid for these.

Q. You don't know whether you did charge the price you paid for these?

A. Yes.

Q. You did charge the same price you paid for these?

A. Yes.

'Q. So you charged for the new Henderson what you paid for the new stuff that went into the boat of that character?

A. Yes, sir.

Q. And you charged on the articles you didn't get, exactly what you paid for the new articles which re-

placed those, haven't you?

A. I don't understand you.

Q. Well, take the table, for example. You put a new table in, and gave \$14 for it?

A. Yes, sir.

Q. And you charged \$14 for the new table that went on the Henderson?

A. Yes, sir.

Q. And you charged \$14 for the old table on the old Henderson?

A. Yes, sir.

Q. And you charged wire mattresses, and paid so much for the new Henderson?

A. Yes, sir.

Q. And charged the same price for the ones in the old Henderson?

A. Yes, sir; but the ones in the old Henderson were better hair mattresses than in the new one. And the hair, or wire mattresses—

Q. But I say you charged the same?

A. Yes, sir.

Q. That is what I want to get at?

A. Yes.

Mr. C. E. S. WOOD: I understand there is no claim on your part that we charged double?

Mr. MINOR: No, I am talking about what he is charging for new articles.

Mr. C. E. S. WOOD: I didn't know, but from the way you put that last question, you thought they were charged twice.

Q. Now, Captain, you know the Hercules, don't you?

A. Yes, sir.

Q. I wish you would tell me how the Hercules and the Henderson compare in boats.

Q. You mean in power, as far as towing is concerned?

Q. In value and all respects.

A. In equipment?

Q. Yes, and in all respects. How do they compare? Are they the same size?

A. Yes, about the same size.

Q. About the same size. The same power?

A. About the same power, yes.

Q. Have they about the same equipment?

A. No, sir, I won't think so.

Q. The old Henderson was better equipped, was she?

A. Better equipped. I mean more equipped, and lots of things they don't have on her in the way of log towing and this donkey boiler and coupling chains.

Q. Outside of that, the boats were practically the same value; outside of the special equipment?

A. Pretty near. Of course, the Hercules hasn't—has a cabin about like the new Henderson.

Q. How does the cost of operating the two boats compare?

A. Why, I should think pretty near the same. It is all owing to how you work them. I have heard it said they worked the Hercules very easy. Of course,

any boat you work easy doesn't cost as much as to work hard.

Q. Those boats you had at the wreck were working very easy?

A. When working, were working hard, but other times, lying idle.

Q. I say, working easy as a whole?

A. Yes, lying idle a good deal. Easy then, but when working, worked hard.

Q. But this is what you call easy work?

A. Yes, sir.

Q. And you have charged for these boats the same amount you would have charged for them if they had been working hard, \$150 a day?

A. Exactly.

Q. Well—

A. Of course, if we was going to lease them out where they had to work hard all the time, and pull up to the limit, we wouldn't let them go for that price.

Q. I understood you to say, Captain, that this hull up here was good enough for a barge.

A. Well, if any one needed that kind of a barge, yes.

Q. Good enough for a barge, was it?

A. Well, owing to what kind of a barge you want. Wouldn't be good enough for barge to boat rock or lumber, but enough of a barge to stand somewhere, of course, to do light work. But that class of barges are not any use—not practical to use them for handling freight.

- Q. That is because they are not flat?
- A. No.
- Q. Barges are built flat on the river, aren't they?
- A. Yes, sir.
- Q. But she was of some value as a barge?
- A. Yes, if any one needed her, yes.
- Q. And you made no effort to sell it?
- A. No, I didn't make any effort to sell it. I don't know where we would go trying to sell one. We never—we will sell it now, if anyone wants it. We had another one that we tried to sell, and got a house on, and offered it for \$300., and of course not as good a barge as this, and we were unable to sell it.

Q. I want to ask another question regarding the kelsons. What was the matter with the kelsons on the old Henderson?

- A. In what way do you mean?
- Q. You said they would have to be renewed. What was the matter?

A. When a boat is twisted up, and the kelsons drove sideways, and the boat broke down, and the kelsons strain down that way, they are all strained.

- Q. They hadn't been broken, had they?
- A. No, sir, I don't think any broken, only the one forward that was struck might have been broken.

- Q. You don't think were broken at all?
- A. I don't think so.
- Q. And could have been replaced, couldn't they?
- A. Yes, just as well as if it had been broken.
- Q. I didn't mean replaced by new ones. I meant

put in line.

A. But you understand a piece of timber bent down and hoisted down, you have to have something to hold it, to strengthen the timber; nothing to hold it; have to hold up with chains with the same kelsons. Of course could put new kelsons and hold her up, but not with these same kelsons.

Q. Captain, in the libel which you filed in this case there is attached to this libel an Appendix A, and on this Appendix A, I notice that you have pretty nearly the same items which you seemingly have given to Captain Johnston. You remember, do you?

A. Yes, sir.

Q. This libel seems to have been filed in October. That was after the Henderson was raised and was on the stays, wasn't it?

A. Yes, sir.

Q. Now, you knew at that time as well what the loss was as you did afterwards, didn't you?

A. Yes.

Q. Now, why did you put in the installation of the fire box, engines and piping and fittings in this appendix, as \$3500. and put it in at \$3100. in Captain Johnston's statement?

A. I never put it in his at all.

Q. You think it cost \$3500. do you?

A. Yes, sir.

Q. He thinks it cost \$3100.

A. I don't know what he thinks. I had nothing to do with that part with him. I know what it cost to

pay for it.

Q. That is the statement.

A. I never made out his statement.

Q. That is the way it looks.

A. I know that is the way he has it, but I never made it out.

Q. Now, do you know what was the cost of the oil burning plant?

A. Oil burning plant, yes.

Q. What was it?

A. Got it in my pocket somewhere. I can tell you. The oil burning plant cost \$2687.

Q. Now, in this statement here you put it in as \$2250.

A. Beg pardon. I never put it in at all in this statement—Oh, I beg your pardon, this statement. I thought you said Mr. Johnston's.

Q. Didn't you put it on that way?

A. Maybe I did. That was made up in a hurry, and I never got down to the bills.

Q. That was made up in October, after everything had taken place.

A. I know had had time, but when this case came up in court, they perhaps gave me a day or two notice to figure out them things. I couldn't keep those things in my head.

Q. This libel was not filed until October, and this accident happened on the 22nd of July. Didn't you have time in that time?

A. Yes, but I perhaps never got notice from Col-

onel Wood or from the court.

Q. No notice from the court? You had to start from that.

A. Well, that is the cost right there. I don't know what it is on there, but this is the cost.

Mr. C. E. S. WOOD: He has put it less than cost. I don't see what you are grumbling at.

Mr. MINOR: I am not grumbling, but here is a witness that has sworn two ways. I want to call his attention to it. Here is the appendix sworn to, and here is the statement sworn to.

A. At that time, perhaps that is the nearest we knew. We wanted to be safe so as to not put it too high, but here is the cost, right here, of the oil plant.

Q. What was the capacity of that oil plant, Captain Shaver?

A. You mean the number of barrels she would hold? Well, I don't remember now. Wait a moment, and I will tell you that. 310 barrels.

Q. Now, Captain, at the time you filed this libel, you estimated the value of the new boat, similar to the Henderson, and the amount of depreciation. You figured the cost of depreciation \$5,000. Now, according to those figures at that time, you thought that hull was worth \$4,000., didn't you?

A. I don't remember. May I look at that?

Q. Certainly. Those pencil figures there are mine. Those other figures are the original.

A. Well, I never filed that at all. That is Captain Crowe's report.

Q. That is not Captain Crowe's report, and has nothing to do with it. That is the Appendix attached to your libel.

Mr. C. E. S. WOOD: Is it?

Mr. MINOR: I asked you, and you said it was.

Mr. C. E. S. WOOD: I am not proper authority.

A. No, sir; Captain Crowe made that out; Captain Crowe and Mr. Honeyman.

Q. That is not Captain Crowe or Mr. Honeyman either.

A. I can show you a copy right from that.

Q. The libel sets forth this.

Mr. C. E. S. WOOD: I don't remember about those things.

Mr. MINOR: I asked you about that.

Mr. C. E. S. WOOD: I told you it was, because I supposed it was.

A. That is Captain Crowe's statement. Here is a copy right there.

Q. I have his statement in another paper.

A. You bet you.

Q. Here is what the libel says.

A. Here is a donkey boiler and winches and everything, a true copy. I never filed anything like that.

Q. The libel says "Damage and loss to libellant, Shaver Transportation Company"—Article 7—"an itemized statement of which is hereto appended as Appendix A, and is expressly referred to and made a part of this article." Now, this is the paper which was served on us, and I presume, and we all presume

is Appendix A.

Mr. C. E. S. WOOD: That is what I presumed, too, because marked Appendix A. Appendix A, page 1, Appendix A, page 2. If it wasn't so, then I am mistaken.

A. A mistake somewhere, sure.

Mr. C. E. S. WOOD: I think this is undoubtedly the appendix to our libel, but it does look to me, now that I see it, that our office had made it from Crowe's statement. I think you are both right—

A. You never found anything like that ever I swore to.

Mr. C. E. S. WOOD: I think you are both right. I think that is the appendix to our libel but evidently from some blunder, made up from Captain Crowe's statement.

Mr. MINOR: I don't know what you made it from. That is the way it is put in here.

A. That is a true copy of Crowe's report.

Mr. C. E. S. WOOD: You see they had a similar heading, and we evidently copied the heading. They have taken Crowe's report, instead of yours.

A. They are exactly the same.

Mr. MINOR: That may be, Captain, all I know is what was given to me as the Appendix. Now, I don't know whether it is or not.

Mr. C. E. S. WOOD: I have no doubt that it is, for it says "Appendix A," and there is no such other language used on the papers. The girl in the office, whoever has given it out to multiply the copies, has

got hold of the title of Crowe's report, instead of what he gave us. He gave us the same title.

Mr. ERSKINE WOOD: Produce the original libel.

Mr. C. E. S. WOOD: It is just the same, isn't it? I don't see how the word "Appendix A" would get on it unless it was. It is the same thing, estimated value. You see he gave us one with the same kind of heading, but that is an error.

Q. This, Captain, is what was attached to your libel, you see, and the original libel you swore to.

A. I didn't swear to that. There is a mistake somewhere, I know.

Q. That is the way it appears on this paper, anyway, isn't it?

A. Yes, that is the way it appears.

Q. And that seemingly is the paper attached to your paper, isn't it?

A. I couldn't say.

Q. Here is the original libel.

Mr. C. E. S. WOOD: That is true; we will admit that. On the amended libel I don't find that any appendix was ever attached.

Q. Now, Captain, I want to call your attention to the fact that on this statement the log towing equipment is put in at only \$500.00.

A. Well, I never put it in at any \$500.00.

Q. Whereas on Captain Johnston's statement it is put in at \$1490.

A. I never put it in either one. I gave Johnston

the items but here is \$500. here, and down here is deck lines at \$475. In Johnston's it is all in one, and here is two places, makes \$975.00.

Mr. C. E. S. WOOD: I would like to state in the record in order to clear this matter up that Appendix A on the original libel has evidently been copied by mistake in our office from Captain Crowe's report, and that this witness ought not be bound by it.

Mr. MINOR: With that statement I don't care to pursue the cross examination any further, except that I wish to have Appendix A offered in the evidence for the purpose of contradicting the statements of this witness. It may not contradict, but at the same time I would like to have it.

Marked "Claimant's Exhibit D".

CLAIMANT'S EXHIBIT D.

ESTIMATED VALUE OF A NEW BOAT SIMILAR TO THE "M. F. HENDERSON" AND DEPRECIATION.

Cost of hull	\$ 9,000.00	\$ 5,000.00
Cost of house	8,000.00	1,000.00
Cost of firebox boilers)		
72"x26')		
Cost of 2 engines 18"x)		
84").... 22,000.00 4,400.00		
) 20%		
Cost of pumps, piping &)		
fitting)		
Installation of same	3,500.00	

Cost of oil burning plant....	2,250.00)	
	)10%.	340.00
Cost of electric light plant..	1,145.00)	
Boiler cleaner	150.00)	
2 Extra capstans at \$120....	240.00)	
Towing engine	800.00)	
Donkey boiler \$350; winches \$220	570.00)	
Ballast tank	250.00)	
Log towing equipment	500.00)	
20 Life preservers (Tulle)..	20.00)	
250 feet 1½" hose coupling and pipes	80.00)	
18 buckets	9.00)	25%
4 barrels	4.00)	1,191.00
6 axes \$6; peevees & capstan bars \$10	16.00)	
2 skiffs 16 feet	50.00)	
1 life boat 20 feet 7 cover....	200.00)	
Furniture of 8 rooms and cabins)	932.00)	
Galley equipment as per list)		
Deck lines	475.00)	
2 trucks	14.00)	
)	
4 fire extinguishers	\$ 50.00)	
	<hr/>	
	\$50,235.00	
Depreciation	11,931.00	
	<hr/>	

Value of "M. F. Hender-	
son time of collision....	\$38,304.00
Present value of engines	
and boilers	13,600.00
Value of extra equipment	
saved	3,235.00
Net present value	16,835.00
Loss on boat	21,469.00
Statement for salving ex-	
penses	8,414.84
Tools and supplies lost as	
per list	418.71
Provisions lost as per list....	83.99
150 days loss of time boat	
while rebuilding at \$30....	4,500.00

	\$34,886.54

ALSO

Exhibit D

3 coupling chains	\$ 13.50
11 chain swifters	66.00
14 cable swifters	63.00
1 extra steering gear cable	13.20
3 safety cables with dogs.....	12.75
3 dog lines	18.75
2 brailers	8.20
9 lantern stands	7.65
4 cavils	30.00
1 pump	300.00
1 safe	45.00

3 16" iron snatch blocks	40.95
Portland Shipbuilding Co. additional bill	60.00
Oregon Timber Co.	27.18
Repairs to derrick barge	21.35
Oregon Transfer Co.	2.50
150 lbs. fuel oil	120.00
14 silver knives	4.66
15 " forks	5.00
15 " teaspoons	3.15
12 ' tablespoons	5.10
2 watchmen 47 days at \$5.00 per day	235.00
	\$1102.94

Credit by return of timbers to East- ern & Western Lbr. Co.....	110.32
To balance	\$ 992.62

Q. Now, at the time this libel was filed, Captain, which was on the 28th day of October, you had then finished raising the Henderson, had you not?

A. Yes, sir.

Q. And you knew exactly what it had cost to raise her?

Q. What time was that?

Q. 28th of October.

A. I suppose so. There might have been something that wasn't in there. There was first one price for—the first we made was just an estimate, which wasn't high enough. Of course I don't know whether that was turned into the court or not. And the next

was for bringing her up to the yard. Nothing put in—also and estimate of \$250. for hauling her out and launching her when it cost \$310. and there was nothing put in for moving machinery or anything.

Q. In those bills you offered, I notice an item of \$200. for putting on the ways.

A. If there was a bill for \$200., I would like to see it myself.

Q. \$250 for hauling out and blocking up the Henderson. And you had a bill for that that I saw.

A. Well, there might have been a bill, but if there is, you will find \$60. somewhere else, for it cost \$310. That was an estimate before it was put in the water. She was hauled out, and we had to fix her up in shape.

Q. Do you say \$200. or \$250. or \$310. was a reasonable sum for that work?

A. That was the shipyard charge.

Q. I don't care whether they charged a million.

A. In this case it was.

Q. You think that was a reasonable charge. Here is the bill I spoke of. Hauling out and launching, \$200.

A. Well, that is for hauling out and launching, too.

Q. They have the labor charged besides?

A. They always charge for some men that help. That is for the use of the ways and things.

Q. Then they charge for the labor of the men that they use, and they charge an item of hauling out and launching \$200?

A. Yes, sir.

Q. And you say that is a reasonable charge for that purpose, do you?

A. I think for that particular boat, you know. They had quite a lot of work to get her out. An ordinary boat charge is \$150.

Q. Now, I note, moreover—

A. First we had an estimate of that at \$250.

Q. Now, I note also a charge here for these men who did the work at \$5.00 a day. Do you think that is a reasonable charge for that?

A. That is the regular charge at the shipyard.

Q. \$5.00 a day?

A. Yes, sir.

Q. For laborers?

A. Not for laborers, no.

Q. That is only labor, isn't it?

A. I don't know whether it is or not.

Q. Look and see whether it is only for labor.

A. How could I tell?

Q. If you are trying to recover, Captain, you ought to know what you are recovering for, and if you present that bill, you ought to know what it is for.

A. That is what he has charged, \$5.00 a day.

Q. Is that a reasonable charge for labor for that kind of work?

A. Not for labor, but for ship carpenters.

Q. That is not ship carpenters, is it?

A. I don't know, but I don't imagine—in fact,

I know that most of these shipyards don't have enough laborers to haul the boat out. They take the ship carpenters and use them for that purpose. Of course I couldn't—in fact, these men that he uses there all the time are ship carpenters hauling out. We had a boat hauled out not long ago—

Q. It doesn't require ship carpenters to do that kind of work, does it?

A. Doesn't require them, but it needs men of experience, and perhaps might be cheaper to go and hire them than to use green men for that. We had the Wauna hauled out a short time ago, and used these same ship carpenters.

Q. Now, Captain Shaver, you filed an amended libel some time in February, 1912. I haven't it here, but I have a copy of it. In the amended libel, you set forth that you have expended in the raising of the Henderson, after the collision, and in the salvage of the Henderson and equipment, the sum of \$10,000. You now render a statement showing not more than \$9,000? Is that right.

A. Well, something over \$9,000.

Mr. ERSKINE WOOD: Does it say exactly \$10,000?

Mr. MINOR: It says the sum of "to-wit \$10,000."

Mr. ERSKINE WOOD: That means approximately.

Mr. MINOR: He ought to know whether expended at this time.

Mr. C. E. S. WOOD: I will state that is a matter

of pleading, and if he had told us he spent somewhere from nine to ten thousand dollars, we would put it in "to-wit \$10,000." That is not stating the exact amount.

Q. So you didn't intend to say ten thousand, when you made this allegation?

A. Not exactly, no. Somewheres near it.

Q. How much of your time did you give to the re-building of the Henderson?

A. Oh, I couldn't say exactly. Most always went up to the ship yard twice a day, forenoon and afternoon.

Q. And how much of your brother's time was taken up with that?

A. Well, I should say half of his time.

Q. What did he have do with it?

A. Why, he looked after the machinery part, and got what was necessary to get.

Q. Now, is it necessary or customary to have two superintendents to look after the building of a boat?

A. Yes, sir.

Q. It is?

A. You hardly ever see a man that understands the woodwork that looks after the machinery, or as a usual thing, you don't see the machinery man look after the woodwork.

Q. Did you have two men there at the same time for all this length of time? How many months were you there?

A. Oh, I think we charged about four months'

time. I don't know exactly.

Q. Do you think it was necessary to have two men there during four months' time that you charged your work?

A. Not all the time, no. There off and on.

Q. You think then, it is a reasonable charge to charge \$800, for superintending that job which would cost \$15,500? Is that correct?

A. Well, I don't want you to understand that the engineer was looking after the woodwork.

Q. I don't say he was.

A. You say it cost \$15,500. It cost pretty near \$28,000.

Q. Then what did you charge this superintendence for?

A. Why, for looking after the construction of the boat, and—

Q. How long did it take you to put the machinery in the boat?

A. Why, the men were working there all the time, cleaning up that machinery and putting it in. Perhaps—we didn't have a very big force. I don't know how long they were working. The book will show exactly how long. April, May, June, July, and part of August—no, part of July.

Q. Now, Captain, what part of the work did you superintend?

A. Well, I superintended all the woodwork, and general superintendent of the machinery.

Q. That is, you superintended it all, did you?

A. Not in the way of putting up the machinery or regulating it or any part of that, but general outline of it.

Q. You were competent to superintend and do all of it, were you?

A. No, sir; I couldn't set a valve to save my neck, or how to put an engine together. I never learned that part of it.

Q. Now, how much of that time was engaged in putting the engine together, as you say? The part of the work, in other words, that you couldn't superintend?

A. Well, I don't look after this part of the work, the machinery work.

Q. Well, how much time was required to look after the machinery part of the work?

A. Well, required from the time we started in until we got through.

Q. Now, Captain, not one bit of that machinery was put into the boat until after the hull was practically finished, was it?

A. No, partly finished, but the machinery—the way that machinery was broke up and tore up and mashed up, there was work there all the time to see what had to be repaired.

Q. Now, what time was it that the hull was being rebuilt?

A. Well, I don't remember what time now, but she started to run in July.

Q. Started to work on the hull in July?

A. No, started to run in July.

Q. What time were they working on the hull?

A. I don't know what time they commenced working on the hull.

Q. That was first commenced on, was it?

A. Yes, sir.

Q. When did they get through with the hull?

A. Well, I couldn't say exactly. Perhaps the last of June.

Q. When did they begin to work on the machinery?

A. Why, they worked on the machinery from the time the Henderson, the old Henderson, was landed on the ways, I had men working on the machinery.

Q. You didn't charge them for that part of the work, did you?

A. Yes, sir.

Q. \$100. a month all the time from the time they commenced?

A. No, not for him. I mean we charged up the men working on this machinery. Some of that was a part of the extra cost.

Q. But you didn't have a superintendent for that, did you?

A. Well, no.

Q. Now, I want to know what time it was that you began to put the machinery in the boat, which required the superintendence of your brother?

A. It requires the superintendence of a machinist from the time you start to build the machinery until

you get it finished in the boat. You couldn't expect that machinery to go up there, and nobody to look after it and start putting it in the boat.

'Q. When did you start to put it in the boat?

A. I don't know.

Q. Don't know when they began to put it in the boat?

A. No, sir, I don't. I know it requires a machinist from the time you start in the machine shop, or from the time you start in with it, until you get it finished. Of course, any one who has machinery work done, don't leave it all to the men to go and get the machinery in shape, or install it, but attend it in that way. Mr. Kerns built barges up there. I notice he always has a man to look after the work, and I imagine he pays him \$100. a month to look after building a barge.

Q. Now, Captain Shaver, will you tell me, how you account for the fact that during the year 1909 the Henderson earned net \$38.79 a day; in 1910 \$38.90; and in 1911 only \$21.42 a day?

A. No, but I have a statement now. I think Mr. Wood brought that. I can show just what it cost. What did you want—1909? You want what we paid out, or what we took in?

Q. I want to know—

Mr. ERSKINE WOOD: He wants to know how that difference in earning power happened to come those years. If you can tell him, just tell him that, Captain Shaver, without the statement.

A. January, 1909, there was wages \$733.80; fuel oil, 598.44; provisions, \$217.37; repairs, \$74.50; expenses \$827.

Q. What was that?

A. That was for little things; I don't know. That is the way we charge up little items that don't amount to much. That makes \$1632.38. Then we charge the company expense. We take—what is charged to the company is \$2379.12.

Q. What do you mean by charge to the company?

A. Well, we charge up, for instance, my wages are charged to the company; both of my brother's wages are charged to the company; and the office rent is charged to the company, and the dock rent is charged to the company, and the man over at the barge, without he is working on something special, is charged to the company, and so on. All those charges to the company.

Q. And you proportion those?

A. We proportion those.

Q. Between all the boats?

A. Two, four, six boats here. That takes one-sixth of that.

Q. That was how much?

A. \$2379.12.

Q. You take one-sixth of that, which made it how much?

A. I haven't it figured out here.

Q. How much was that you call fixed charges?

A. \$2379.12.

Mr. ERSKINE WOOD: You take one-sixth of that, or is that one-sixth?

- A. Take one-sixth and add to the other.
- Q. Take one-sixth of that?
- A. And add to the other.
- Q. That was January of what year?
- A. January, 1909. Does that figure out what you got?

Q. I don't know, sir. I haven't figured it. I guess that is about right. It makes \$2108.20, which is about the same. Now, in Feburary you have made the same kind of an estimate, have you, straight through?

A. This is a monthly report that the bookkeeper gives me. Of course, he doesn't take out the one-sixth or anything like that. He charges it up to the company, and we make out the report for some boat. I have to take one-sixth. Now you want the Feburary. Wages, \$715.15; fuel oil, \$541.36; provisions \$157.22; repairs, \$99.50; water, \$1.00; towing, \$22.50; expense, \$2.92; total \$1565.15. Taking the \$25. off of that; you see we have company towing; one boat tows a raft part of the way, and we take the boat. The same thing goes off the other. It would make a little difference.

Mr. C. E. S. WOOD: I don't want to interrupt you, but your question was, how do you account for your earnings being less in the later years than the earlier year. And he ought to have his attention called to that in the record. He hasn't answered the question at all.

Mr. MINOR: I know he hasn't. I couldn't tell how he was going to answer.

Mr. C. E. S. WOOD: I thought it should be brought it should be brought to his attention. He really has not answered the question.

Q. You are not really answering the question at all.

Mr. C. E. S. WOOD: The question is, how do you account for the earnings of the Henderson being less the first half of 1911, in which she was destroyed, than for two years earlier in 1909?

A. I don't know any particular way to account for it.

Whereupon proceedings herein were adjourned until 10 a. m. Friday, May 23rd.

Portland, Ore., Friday, May 23, 1913 10 a. m.

Captain J. W. Shaver resumes the stand.

Cross Examination continued

Questions by Mr. MINOR:

Captain, I call your attention to this Portland Ship-building Company's bill of August 22, 1911, and on this bill I see there is labor employed in hauling out the boat, charged specially. Is that correct?

A. Yes, sir.

Q. Then what is the hauling out and launching for?

A. That is for the use of the ways and gearing, etc. That is the way they always charge those bills.

Q. That is just for the use of the ways and gears

in hauling it out?

A. I suppose. That is the way they always charge for hauling out. They charge extra always for the men they furnish.

Q. What is the launching for?

A. The use of the ways. The hauling out and launching is all one charge, for hauling out. The boat laying there and launching her. They didn't charge for the time the boat was on the ways.

Q. They just charged \$200. flat for that?

A. Yes. An ordinary boat they charge less, but they claimed this one, on account of being in bad shape, and the extra work and everything, would cost more.

Q. What do they ordinarily charge?

A. The ordinary charge is \$150. for a boat of that size.

Q. \$150.00?

A. Yes.

Q. Is that besides the labor?

A. Yes.

Q. It does not include the labor?

A. No, that is outside the labor.

Q. Outside the labor?

A. Yes; the horses they have to furnish, the teams to aid in pulling.

Q. Captain Shaver, in this expense account of this boat, you charged, you said, one-sixth of what I call the fixed charges of your office?

A. Yes, that is for the office and the extra men.

Q. The men in the office, and the men who are engaged in doing what?

A. Well, myself and my brother, the chief engineer, and then my brother attends to the office, the managing, and then the bookkeeper and the commissary man. There is five of us there, and two men over at the yard.

Q. Two men over at the yard?

A. One ship carpenter and one machinist that does blacksmith work.

Q. That is what that is composed of?

A. Yes; does odd jobs.

Q. That is a charge fixed all the time, same price.

A. How do you mean same price?

Q. Each month the same?

A. Well, yes, the men get the same wages, and we pay the same dock rent.

Q. You have the same men?

A. Most always, yes.

Q. So that each one of these months that you have given the expense of operating the Henderson, you have charged about one-sixth of \$2379.12?

A. Well, as far as the men and the office and the rent, and everything like that, it would be the same. There might be some little extras, you know, different things, that would be charged to the company, that would be divided up and charged in that way. It would run something near the same. Of course it might be—there might be something sometime in the machine shop that we would charge up a sixth of

that, something like that. There might be some extras.

'Q. Calling your attention to this statement for the year 1909, Libellant's Exhibit 27, I note that the expense of the Henderson for the month of January, 1909, was \$2108.20, and the amount received was \$3005.60; for the following month the expenses are put in \$2106.35, and the receipts \$4112.78, and from that it appears that the amount the boat earned didn't affect necessarily the operating expenses of the boat, did it?

A. Well, no, not always. Sometimes it might; There might be some extra costs in some months. Now, for instance, one time we had a barge bringing up through Willamette Slough, and they had a damage to this barge that cost \$500., over \$500. That would be charged to the Henderson.

Q. But there was none in these. You gave me an itemized statement of these two months. You gave me January wages, \$733.80; February wages, \$715.-15; oil for January, \$598.44; oil for February, \$541.-36; provisions, January, \$217.37; provisions, February, \$157.22; repairs, January, \$74.50; February, \$99.-50. I will leave out some of the other small items, so these January earnings, you see, are about one-third more for February than for January, a little more than one-third more; you didn't have to burn any more oil, or employ any more men, or buy more provisions. Do you note that?

A. No, I don't remember. If we done a lot more

work, must have done a better class of work, or must have burned more oil—one of the two.

Q. That is what you give right here in your own statement.

A. I don't remember this. It is right, I guess. Sometimes there is quite a difference in the work a boat does. Might have work not much money in, and might have work quite a lot of pay in.

Q. Where did you get the list of articles lost?

A. Where did I get that?

Q. Yes; a list of articles lost.

A. Well, I got them principally by knowing what was on the boat.

Q. From memory, you say?

A. Well, from memory and comparing with the other boats, and things of that kind. I can pretty near tell what stuff was on all of these boats.

Q. You had no inventory of what was on them, did you?

A. No, sir.

Q. A great deal of it was from memory.

A. Well, partly, but we know that boat is equipped up for towing two ships at a time, and we know it takes so many lines to tow those ships, and we know it takes so many snatch blocks, and we know it takes so many chain lines, and so many coupling chains, and things of that kind; not all memory, exactly. All things we know have to be on there to handle these ships, and we know they are on there.

Q. But you have no inventory of what was on

there at all?

A. No.

Q. Now, all the items which Captain Johnston got, he got from you. Is that right?

A. Yes, sir.

Q. And all the items which Captain Crowe got, he got from you, didn't he?

A. Yes, sir.

Q. So all the information which Captain Crowe got, in regard to the items, he got from you?

A. Yes, but Captain Crowe was on the other boats, and had been on that boat a good many times, and part of them was things that he knew himself were on the boat.

Q. Substantially, it came from you?

A. Yes, yes, indeed.

Q. And the prices that Captain Johnston put on them, however, he fixed himself?

A. Done what?

Q. Fixed that price himself?

A. Some prices I gave him, and he checked them up, and some prices he cut down from what I had.

Q. And the prices Captain Crowe gave, he got those from you too, didn't he?

A. He got some of it, but Captain Crowe usually figures out things himself. He don't usually take any one's word. He is pretty well posted in prices, and can tell you what things are worth. Of course, the items I gave him mostly.

Redirect Examination.

Questions by Mr. C. E. S. WOOD:

Captain, I think it will save time—Mr. Minor, for your convenience, and perhaps the Court's, I will ask a leading question. Mr. Minor asked you in substance something like this: How you came to get a brand new boat for \$38,000, when the value of the Henderson at the time of her wreck was put at \$45,000. Now, if you treat the new Henderson as a repaired boat built upon the old engines and salvage, then I understand—I am putting this leading, Mr. Minor, we have all been into it—then I understand that that repaired boat figuratively speaking, constructively speaking, would be \$38,000, but if you are going to treat it as a new boat, then you would have to add the value of the salvage material that went into her, wouldn't you? Am I right about that?

A. Yes, sir; yes, we would have to add—

Q. For example. We have got the \$38,000 made up in round numbers of \$27,700 for money expended on the hull and woodwork, etc., and then we get in there the cost of salvage about \$9,000, and the lost articles that had to be replaced, about \$1300. Now that is true, isn't it? That is what makes up the \$38,000?

A. Yes, sir.

Q. Now if you are going to treat her as a new boat, you will have to add to her value the salvaged stuff that was put in her?

A. Yes, sir.

Q. What is that value?

A. Why, that is about \$16,000—sixteen thousand. Of course you would have to deduct what it cost us to get that, but the salvage would be about sixteen thousand.

Q. Now you have been over a great many times what the salvaged articles were. The boiler, the engines, the hog chains, etc.

A. Shaftings, pumps.

Q. Piping. If the Henderson had been lost entirely, not a thing recovered, and immediately on her loss you ordered a new boat to replace her, of the same style, and to take your season as quickly as you could, what would it cost you? From your experience and knowledge as a boat builder and knowledge of prices, in 1911, at the time she was lost, what would it have cost you to build a new boat in that way?

Mr. MINOR: Objected to as incompetent and irrelevant, and particularly because it is not proper showing what a new boat would cost; only the value of the Henderson at the time she was lost, or if she was not a total loss, then what it would have cost to put her in the same condition she was at the time. The value of a new boat would not be competent, nor would it be any guide to the value of the old.

Q. Well, answer the question if you understand it. Do you?

A. Well, of course the price makes some differ-

ence in the time you have. If you would have to rush a boat to get her out in—well, it would take from six to eight months to get the boilers, and of course the more you hurry a boat, the more you rush, the higher price you have to pay.

Q. I am talking about, supposing that she was your only boat, we will say, in business, and she was gone entirely, and you had to replace her, and you rushed to do it?

A. Well, it would cost, I should say, \$60,000.

Q. Would that be by contract?

A. Well, part of it you could contract, but of course there would be some you would have to do by day's work, but let a contract to a shipyard, hurry it up, and rush it, they charge more, and also the machinery, and also the boiler.

Q. Would it make any difference in that price if you did it by day's work?

A. Well, I don't know as it would cost a great deal difference. It would cost a little more, maybe, by day's labor, but I don't think it would make a great deal, if you had to rush it.

Q. If you had taken the stuff that came out of her, and rushed the job on the theory of repairing, and putting in good shape, and repairing it, and made a time rush job of it, what would it cost you?

MR. MINOR: I object on the same ground, incompetent, irrelevant and immaterial, because it is not a proper item of damage.

A. I would think it would cost perhaps \$3000.

more. That would be forty thousand, forty one or two thousand.

Q. Do you think that you gain anything in price, in economy, by building as slowly as you did under your own supervision, and doing so much work yourself?

Mr. MINOR: I object to that as incompetent, irrelevant, and not a proper item of damage.

A. Yes, sir, I think the—I know it would make quite a difference, because lots of the work, if you have time, why you can get the work done cheaper, and in this particular case, why we done quite a little bit of the smaller work ourselves. For instance, if we had a boat that was laid up for a day or two, we worked some of the crew, and we never put in this cost at all; and our man at the shops, little jobs, when we wasn't busy, why he would do a little of the pump work and valves, and things that were broken, that he would fix.

Q. How long were you in rebuilding her?

A. Why, it was something over a year's time.

Mr. MINOR: All subject to our objection.

Mr. C. E. S. WOOD: Yes, all subject to counsel's objection.

A. About a year's time, I think.

Q. Counsel asked you something about the barge you made out of the old hull. What was the value in that remaking the barge—what was the value of the old hull?

A. As she lay, after the machinery was taken off?

Q. After the wreck, yes.

Mr. MINOR: I think you went into that yourself.

Q. Possibly. Take it this way, then. You say you put a house on her, and used it for a workshop?

A. Not using her at all, yet. We fixed her up, and have put a house on, but we haven't so far yet used her. We expect to.

Q. You have got a workshop already, haven't you?

A. Yes, sir. This workshop was a little small, and the hull is about 21 years old, so we thought by having this larger hull that we could fix it up and transfer our shop, but we haven't transferred it yet, and in fact it is not necessary to change it, and we don't care much whether we do or not. If anybody would want to buy the barge at the present time, we would sell her for what—for the repair bill we paid at the yard, and what money we spent on the house.

Q. That is, you would sell her for the actual cost and consider the old hull as nothing?

A. Yes, sir, if anyone wants to take her at that price now, they can have her.

Y. Do your boats work every hour of the day, and every day of the month, and every month of the year?

A. Well, when we are busy we do. Of course there is a good deal of time—

Q. I say do you work every hour of the day, every day of the month, every month of the year. That is, are you constantly at work the year around?

A. No, sir, no.

Q. Now this price of \$150. a day; if your occupation was continuous, without let up, could you afford to make a reduction in that?

A. Yes, sir. Yes, we could work for \$100 a day if we could have it steady the year around.

Q. Then the \$150 a day covers the average cost of the time that the boats lie idle?

A. Yes, sir; that is we have to figure on that.

Q. Have you got your books here, showing your charges to other people, on this same boat, of \$150. a day, and \$10. an hour?

A. Why, we can show where we had—towing these log rafts, where we furnished a boat for \$150. for 12 hours, or less, and \$10. an hour for extra time put in on the raft.

Q. But I am referring to this book here. Have you got charges against other people in the regular course of your business, for the Henderson, just the same—for these boats that you used at the wrecking, just the same as you put in the wrecking charge?

A. Well we don't often hire out by the day. Of course most of our work is contract work, but we often do jobs by the hour, moving ships; there is of course a set price on that so it isn't very often we hire out by the day. These log rafts, or cigar rafts, are about the only ones where we hire out in that way.

Q. I am asking you if you have got, in the regular course of business, such charges as you put in here?

A. Yes, sir.

Q. And these you have charged up against this wreck are minimum charges, are they?

A. Yes, sir. Those charges there, \$150. for 12 hours, are such. That doesn't take in the 24 hours. It takes in 12 hours, and if any extra time over this 12 hours, they pay \$10. an hour.

Mr. C. E. S. WOOD: I only want to offer this for your use, Mr. Minor, and your inspection.

Q. Now, Captain, what is it that makes the fluctuation in profit, between one month and another, or one part of a month, and another?

A. Well, in the winter months there isn't usually as much work to do in the log towing, as in the summer, because they can't put in many logs in the winter. Of course, there is quite a few stored down the river, we tow in the winter, and some logs down, but most of the work is done in the summer months.

Q. What do you call your harvest season? What months do you call the cream of the season?

A. Well, usually after the June freshet; that would be August, September and October. Of course there isn't a great deal of difference in the summer months.

Q. What is your pressing season, when you need all your boats? When does that begin?

A. That is in May, June, and July.

Q. Why?

A. In the time of the June freshet in the Columbia, that usually commences the first of May, and by the middle of May the current is pretty strong, and that lasts usually until the middle of July; it keeps us very

busy then to keep the saw mills going if they are running the usual time that they mostly have the last few years.

Q. So if I may sum up what I understand to be the sense of your testimony: when there is a showing for the barge, we will say, arbitrarily for the purpose of this illustration, of \$30. a day for net profit, that \$30 is only arrived at by making a charge of \$150 for the time the boat is actually employed?

A. Yes, sir, it would be in that way, when we do work by the day.

Q. Now the bulk of your work is not leasing or hiring a boat out by the day, is it?

A. No, sir, mostly contract work; towing logs, so much a thousand, and ships, so much a ton; a regular rate.

Q. Then your profit depends on the activity of the business?

A. Yes, sir.

Q. Which gives you constant employment?

A. Yes, sir.

Q. Why was it that the profit as pointed out by Mr. Minor, was less in the year 1911, in the early part of the year, before the Henderson was wrecked, than it had been in the preceding year?

A. Why, 1911, the last part of 1910, and principally the first of 1911, the lumber business was quite dull, and the mills weren't running very strong; the most of them shut down from two weeks to a month, to repair, and in January and February we had very

little towing, especially February. It was the smallest month that we have had for several years.

Recross Examination

Questions by Mr. MINOR:

Q. I understand, Captain Shaver, that you charge for towing rafts, by the length of the raft, and not by the day?

A. No, by the thousand.

Q. By the quantity of lumber in the raft?

A. Yes, sir.

Q. The principal part of your business is towing work?

A. Yes, sir.

Q. What is your rate?

A. Rate?

Q. Yes.

A. It runs from forty-five to ninety cents.

Q. Depending on the distance?

A. Yes, sir.

Q. Where is it ninety cents from? And where forty-five?

A. Ninety cents if from Grays Harbor. Forty-five cents is down as far as Mt. Coffin and below the bridges, in Portland; five cents more for going through the bridges, and the rate changes at different places along the river. Stella takes the next higher rate, and Beaver.

Q. What is the rate from Stella?

A. Stella is 55 cents. These rates are all five cents

less below the bridges. That is, a difference of five cents through the bridges.

Q. How long does it take to bring a raft from Stella to, say, the Eastern and Western mills?

A. It is owing to the time of the year, how the current is.

Q. Say, in the busy part of the season?

A. Busy part?

Q. Yes.

A. One raft?

Q. Yes.

A. In the June freshet, May, June and July we tow one raft; at the present time we are only able to tow one raft; in the low water we tow two rafts; when the water is low we can tow two rafts and make as good time as we can one, at the present time, and it takes us about 40 hours to make the round trip.

Q. How much lumber in one raft? What is the average?

A. Eastern and Western, would be about 350,000 to the raft. Three hundred to three hundred fifty.

Q. \$165 for 300,000, and for 350,000—

A. I suppose we would average about 300,000, perhaps; 325,000.

Q. Average 300,000?

A. From 300,000 to 350,000—perhaps 325,000.

Q. I just took 300,000 because it was round figures. That is 40 hours for the round trip?

A. 600,000 would be about \$300, I guess.

Questions by Mr. GUTHRIE:

Captain Shaver, in regard to Colonel Wood's question about the cost of the new Henderson, I don't understand that you mean to say the cost of the new Henderson, looked at as a new boat, is to be the \$27,000 expended for new materials, and the cost of building, plus the cost of salving, plus the value of the salvage, but rather the net value of the salvage, or cut out altogether the cost of the salvage, because you couldn't expect to charge both the cost of saving, and also for the value of that salvage, because the salvage has its value because you have saved it.

A. Well, we have to spend that money to save it.

Q. True. But is only worth so much because you have spent that money. So the value couldn't be added in again because of saving, and also add the value of saving.

Mr. ERSKINE WOOD: I don't know whether you understand him, but that is what he said. Add the salvage and deduct what it cost to get it.

A. That is what I said.

Q. You don't want to add \$16,000 on the \$38,000 that wouldn't be right?

A. No, \$16,000 less is what it would cost.

Q. Which would be about \$7,000?

A. Yes; seven or eight thousand.

Q. I understood you to say, Captain Shaver, that if your boats were employed every day, you could afford to work at a hundred dollars a day?

A. Every day, the year around, yes sir;

Q. I thought yesterday you said that it cost better than \$100 a day to operate a boat?

A. Well, I seem to have made a little mistake there, the way we figure out, but of course \$100 a day you wouldn't be able to keep your boats up.

Q. And you couldn't afford to work for \$100 a day?

A. Well, you could temporarily, but you couldn't perhaps, for a number of years, because when your boats are worn out you wouldn't be able to make a profit, keep them in shape. There is certain times in the winter when we don't have much business, when we can leave the boats out cheaper than in the summer when we need them. In the summer it isn't a matter of making money, particularly, but we have certain mills we have to keep in logs, and we have paid out more in getting logs in here, and some other boat helping us, considerable than what we get out of the rafts, but we have to do that in our business, to keep the mills going.

Witness excused.

A. M. Conway recalled by the Libellant.

Direct Examination

Questions by C. E. S. WOOD:

Did you make out that itemized statement from the books of the Shaver Transportation Company, with reference to the salvage of the wreck of the Henderson?

A. Yes, sir.

Q. Have you got it?

A. Yes, sir.

Q. Is that a true copy from the books of the company? Have you checked it over carefully?

A. Yes, sir.

Q. And does it show for what services the item relates?

A. Yes, sir.

Mr. C. E. S. WOOD: Under the stipulation made, and subject to all the objections of counsel, except that this is not the original books, we offer this in evidence.

Marked Libellant's Exhibit 31.

Cross Examination

Questions by Mr. GUTHRIE:

Were you bookkeeper at the time these expenses were entered up in the books?

A. Yes, sir.

Q. And they were made in your handwriting, in the books?

A. Yes, sir.

Q. And you are yourself personally familiar with those entries as they were put in the books?

A. Yes, sir.

Q. And you know of your own knowledge that they were correctly entered from the invoices?

A. Yes, sir.

Q. And that this is a verified transcript taken item by item?

A. Yes, sir.

Q. From those books?

A. Now there is one difference in that, on the Robert Wakefield bill. He had made a mistake of fifty cents in his addition on the bill. I can show it to you on the bill, and I had it in my book \$255.50, while it should have been \$255.00. I put it in two items in this statement, and didn't put the fifty cents in. It is just at the bottom of the first page.

Redirect Examination

Questions by Mr. ERSKINE WOOD:

Did you make out an itemized statement of the work done at the yards?

A. No, sir.

Q. Repairing and cleaning machinery, and putting that in?

A. Just the raising of the boat.

Q. You will have to make an additional statement for that work, too?

A. I didn't know you wanted that.

Questions by C. E. S. WOOD:

Yes, that eight hundred and some odd dollars.

A. I can very easily make that; in fact I think in that other statement it is itemized. There is only two items in that, I think.

Q. This statement that has just been introduced, Libellant's Exhibit 31, includes the expenses up to bringing her to Portland and hauling her up?

A. Well, that includes the hauling out, but not the—

Q. But it doesn't include the cleaning up?

A. No, sir.

Q. And fitting the machinery, etc?

A. No, sir.

Q. Well, you will have to add then, to this statement. What was the gross amount of that work?

A. \$878.66.

Q. Well, give us the same kind of an itemized statement on that.

A. All right, sir.

Q. Why we can add it to this. What we want, Mr. Conway, is everything that the books show that can convey to an opposing counsel and the court an idea of just what this money was paid out for. Not just a list of names, but what those names did. What they want to get at, is the reasonableness of these charges.

Recross Examination.

Questions by Mr. GUTHRIE:

I want, if Mr. Minor has not the information, as to any credit given the Eastern & Western Lumber Company?

A. I will look that up when I get down.

Mr. C. E. S. WOOD: He has to make another statement of the cleaning up of the machinery, and repairs, so he will have to bring a supplemental list, and at the same time will look up that credit for resawing and return to the Eastern & Western Lumber Company of the heavy timbers that were used in the salving.

A. All right, I will look that up.

Mr. C. E. S. WOOD: Whether they got credit,

or not; find out how much you did get back from that return of timber, because if they didn't get credit, they are entitled to it, and we want to know the sum of money.

Mr. MINOR: In looking over this statement, who is F. R. Stimson?

A. He was captain of the steamer Henderson.

Mr. MINOR: And on the 3rd day of August there is a charge to H. F. Stimson?

A. That is Stayton.

Mr. MINOR: Stayton? Who was he?

A. I don't know exactly what he was doing on the boat at that time.

Captain SHAVER: Pilot on the Henderson.

A. Pilot.

Mr. MINOR: Who is J. W. Shaver?

A. He is the manager of the Shaver Transportation Company.

Questions by Mr. MINOR:

And who is L. Shaver?

A. Chief Engineer of the Shaver Transportation Company.

Q. Who was E. A. Tabor?

A. He was commissary man at that time, and he helped with the books.

Q. Who was J. C. Wendell?

A. He was—he works in the yard. What do you call it?

Captain SHAVER: He is engineer at our shops.

A. Engineer.

Q. Who is E. S. Harlow?

A. Ship carpenter.

Q. Who is Captain D. Shaver?

A. He is president of the Shaver Transportation Company.

Q. Do you know what became of all these items marked here on the 7th of August as purchased from B. Trenckman & Co?

Mr. C. E. S. WOOD: I would suggest that these are only here as a substitute for the books. If you want information you better put Captain Shaver back on the stand, and ask about it.

A. I couldn't say anything about that at all. They were on the books.

Mr. MINOR: He is to bring up, Mr. Wood, as I understand, a supplemental statement. Now I would like to know what became of those several things that were bought for this wreck. Not hired, but bought from B. Trenckman & Co., items as follows: so many shackles, and express.

Mr. WOOD: Mr. Shaver would be the best man to ask about that.

Q. The books would show what became of that, if credited.

A. Not if they were lost, or anything like that. I wouldn't have any account of it at all.

Q. Here is the Eastern & Western Lumber Company. Timbers. There seems to be no credit for that.

A. That is what he asks me to look up.

Q. Here is Honeyman Hardware Co., items as

follows: rope.

Mr. C. E. S. WOOD: You look over the books, and see what credits the books show have been given for any returned articles, or anything realized from articles that were bought and used. In other words, the same idea as with the timber, but applied to anything else.

Captain SHAVER: The timber is the only one shown for.

A. I think that would be the only one.

Mr. C. E. S. WOOD: You may think so, but Mr. Minor wants, and is entitled to it—to have you come back here and say either the books show nothing, or if they do show it, then you bring it in.

Witness excused.

Charles M. Nelson a witness called on behalf of the Libellant, being first duly sworn testified as follows:

Direct Examination

Questions by Mr. ERSKINE WOOD:

Mr. Nelson, you are a boat builder here in Portland?

A. Yes, sir.

Q. Proprietor of the Portland Shipbuilding Yard?

A. Yes, sir.

Q. How long have you been in that business?

A. In that place?

Q. No, anywhere.

Q. About forty years altogether.

Q. You build boats for the Shaver Transportation

Company?

A. Yes, sir.

Q. Repair them?

A. Yes, sir.

Q. Done any work for Mr. Daniel Kern?

A. Yes, sir.

Q. The Columbia Contract Company?

A. Yes, sir.

Q. How long have you worked on the Columbia or Willamette rivers in that kind of business?

A. 29 years.

Q. How long before the wreck of the Henderson, did you have occasion to overhaul her?

A. That I don't recollect. I don't know when the collision happened.

Q. The collision happened in July, 1911. I don't mean to pin you down to the exact date, I mean about how long.

A. It was—I forgot the date we hauled her out. It is on the bill there.

Q. I don't want the date. I understood that from time to time you overhauled the old Henderson, and looked her over.

A. Oh, before the collision.

Q. Yes.

A. That must—I think we had her out seven or eight months before the collision.

Q. Have you had her out before that at different times?

A. Yes, sir, yes.

Q. What condition did you find her in?

A. She was in good condition.

Q. At this time that you looked at her, seven or eight months before the collision, was she in good condition then?

A. Yes, she was in better condition than I expected.

Q. Did you make a thorough examination?

A. Yes, sir.

Q. Down in the hold?

A. Yes.

Q. Everywhere about her?

A. Yes.

Q. And what is the custom of the Shaver Transportation Company generally about keeping their boats in good condition, if you know from examination of their different boats?

A. They keep their boats in a very good condition.

Q. Was this M. F. Henderson well salted or not, when you looked at her the last time?

A. They used to take very good care of the salting part of their boats.

Q. Well, this last time you looked at her, seven or eight months before the collision, what was the condition, especially of her kelsons and floor timbers?

A. Kelsons and floor timbers? They were all good.

Q. It was at your yard, wasn't it, that they hauled the hulk out after the wreck? Put her on your ways?

A. Yes, sir.

Q. What would you say as to the condition of that hull at that time, whether it was more practical to build a new hull, or try to repair that one?

A. I would not waste—

Mr. MINOR: I object to that question as incompetent and irrelevant.

Mr. GUTHRIE: And suggests the answer.

Mr. ERSKINE WOOD: I don't know how this could. I asked him whether he would repair or build a new one.

Mr. MINOR: It is not a question what he would do, or what was the more economical, but the question is whether or not the hull was in such a condition that it could have been repaired and used.

Mr. C. E. S. WOOD: Could it have been repaired in good business?

Mr. MINOR: Doesn't make any difference whether good business or not.

Mr. C. E. S. WOOD: Do you take the position, if it would have cost more to repair it, and then you would have a worse article than to build a new one, still the obligation was to repair it?

Mr. MINOR: I don't take that, but take the position, if the hulk could be repaired for less than the cost of building a new one, and put in repair substantially as good as before the accident, but that isn't the question of whether more economical to build a new one or not.

Mr. C. E. S. WOOD: That is binding on us?

Mr. MINOR: I think not at all improbable; it

might be more economical to build a new hull, but we can't be charged with the expense of the new hull if the old hull could be repaired.

Q. Mr. Nelson, in your opinion, could the old hull have been repaired and put in as good condition as it was before the accident?

A. It could have been.

Q. And what would it have been necessary to do to so repair it?

A. Reconstruct completely the whole hull.

Q. And explain the condition of the hull which makes you answer as you do. That is, what was the condition of the hull that makes you think the only thing to do was to reconstruct it.

A. Well, it was broke in two, and twisted all out of shape, and the kelsons would have to be taken out of her, and a good—most part of the frames, all the deck house, and deck, had to come out. There would be very little left of her.

Q. State whether or not she was hogged?

A. Yes, she was hogged.

Q. How much?

A. The stern was hanging down, it was hanging down about—nearly two feet. The kelsons were broke in two.

Q. Would there have been any advantage gained by repairing her instead of rebuilding?

A. I don't believe, in a financial way.

Q. In your opinion what was the value of the old hull as she lay on your ways after the wreck, before

any repairs—well there were no repairs.

A. She had no value.

Cross Examination.

Questions by Mr. MINOR:

Mr. Nelson, you say it could have been repaired?

A. Yes, sir.

Q. What would it have cost to have repaired it, and made it as good as it was before the accident occurred?

A. Well, the new boat cost—what I had for the boat was \$15,500.

Q. I didn't ask that, Mr. Nelson.

A. Well, that is as near as I can state it.

Q. You say she could have been repaired?

A. Yes, sir.

Q. And made as good as she was before?

A. Yes, but not for less money than it would cost for a new boat.

Q. How much would it have cost to have repaired it and make her as good as before the accident, as good as a new boat?

Mr. ERSKINE WOOD: You mean the hull and house?

Mr. MINOR: I mean just the hull.

A. The hull?

Q. Yes.

A. I am not exactly prepared to state. That would be about—I guess about \$9000.

Q. You think it would have cost \$9000 to have repaired her?

A. To build a new hull; to repair the old one would cost just as much; there wouldn't be no difference at all.

Q. Were any timbers rotten at that time?

A. Very little; very little.

Q. How many of them were rotten even a little?

A. Well there wouldn't be over probably 20 frames show a little decay.

Q. Any of the kelsons show any decay?

A. No.

Q. No decay in any of the kelsons?

A. No, sir.

Q. When did you examine her to see whether the kelsons showed any decay?

A. Well, as I said, about seven or eight months before, and when we were working at it when she was wrecked.

Q. When you say none of them showed any decay, do you speak about the time you examined her seven or eight months before, or the time she was hauled out after she was a wreck?

A. After she was hauled out; after she was a wreck.

Q. Then at that time the kelsons didn't any of them show any decay?

A. No.

Q. And you think about 20 frames showed decay?

A. About that many; about 20 frames on there.

Q. You think that Captain Shaver is mistaken when he said there was some decay shown on some

of the kelsons?

A. No, I didn't see any.

Q. You didn't see it?

A. No.

Q. You think he is mistaken when he said that?

A. I didn't hear him say anything.

Q. He said that. He said three of them showed some decay, not much.

Captain SHAVER: Three kelsons?

Mr. MINOR: Yes.

Captain SHAVER: I think you are mistaken, sir.

Mr. MINOR: What is that?

Captain SHAVER: No, not me.

Q. Do you remember having any talk with Mr. Kern at the time that old hull was on the ways at your yard, about the hull?

A. I was talking to Mr. Kern. He was up there several times.

Q. You were talking to him about doing what?

A. Doing what?

Q. Yes. What were you talking to him about?

A. I don't recall that. I don't think it was of any consequence.

Q. Do you remember talking to him about repairing that hull?

A. No, I don't recollect what I spoke about.

Q. Do you remember talking to him about repairing that hull and fitting up that hull for a barge?

A. Yes, I remember he spoke about buying it.

Q. And do you remember you told him what you

would fix up that hull and fit her up for a barge for?

A. No, sir, I don't recall that.

Q. Isn't it a fact that in that talk with Mr. Kern you told him that you would fix up that hull, fit her up, and fit her up as a barge, for the sum of \$3,000?

A. Maybe I did.

Q. Did you or not?

A. I can't recollect it. I wouldn't deny it. Probably I did.

Q. Now to fit that hull up as a barge, it would have to be strong, wouldn't it?

A. Yes.

Q. Have to be as strong as it would have to be for the Henderson, wouldn't it?

A. As strong as the Henderson?

Q. As strong as it would have to be in order to be the hull of the Henderson, wouldn't it?

A. Yes, sir.

Q. Have to be caulked well over, too?

A. Yes, sir.

Q. All these kelsons which were broken would have to be fixed up, wouldn't they?

A. Yes.

Q. And all the timbers which were broken would have to be fixed up, wouldn't they?

A. Yes, sir.

Q. When she was fitted up for a barge, would she then have been suitable for the hull of the Henderson —of a steamboat like the Henderson?

A. No, sir.

Q. Why?

A. Be out of shape.

Q. Out of shape?

A. Yes.

Q. You couldn't straighten it, then?

A. No, not for a steamboat; it wouldn't be right.

Q. It wouldn't have to be straight for a barge?

A. No, not particularly.

Q. I understood you to say that one the kelsons was broken.

A. Yes, there were several of them broken.

Q. How many?

A. They were all broken; five of them.

Q. All broken. Those broken ones could have been taken out and replaced, couldn't they?

A. No, they wasn't taken out.

Q. I say they could have been taken out and replaced?

A. Oh, yes.

Q. How much would that have cost?

A. Oh, I am not prepared to state.

Q. You can't tell?

A. No.

Q. If they had been taken out and replaced couldn't the boat have been straightened up on the new kelsons?

A. Yes.

Q. Could have been straightened, could she?

A. Yes; to take most of her frames out of her, and all the kelsons out, then there would have been noth-

ing left.

Q. Now in order to have fitted her up for a barge, you would have to take those kelsons out, too, wouldn't you?

A. No.

Q. Why?

A. Just couple them up.

Q. What is that?

A. Just straighten them with a plank there.

Q. Straighten with what?

A. With plank on the side of them. Leave them in as they were.

Q. But that you couldn't do if going to be the hull of the Henderson?

A. That is the way you do it.

Q. But that you coudn't do if she were going to be the hull of the Henderson?

A. Could have been done, but wouldn't have been a good job. Wouldn't have been a first class job for a steamboat.

Q. I understood you to say that one of the kelsons was broken in two, is that right?

A. Yes, five of them were broke.

Q. Five of them broken in two?

A. Yes.

Q. Do you mean to say that the timber itself was broken, or that they just pulled apart where they were spliced?

A. They were broken.

Q. The timber itself was broken?

A. Yes, sir.

Mr. ERSKINE WOOD: I think he means broken down, if you will ask him.

Mr. MINOR: He says the timber was broken; I asked him.

Mr. ERSKINE WOOD: I will clear that up, I think.

'Q. Now, Captain Nelson, you have said this hull could have been repaired?

A. Yes, sir.

Q. And if she were repaired, you said the only way to do it was to rebuild her?

A. Yes, sir.

Q. Well, in rebuilding her, could you use anything which was on her, or in her?

A. Yes, sir.

Q. What could you have used?

A. Oh, a few frames, and part of her bottom planking.

Q. And that wouldn't be worth anything, though, in repairing her?

A. It would, but it would cost a lot of money to keep her there; it would be cheaper now; cost money to tear her to pieces, you see, and to build new you don't tear to pieces; you build from the bottom up, you see. That is the reason it costs so much money to repair a boat, tearing it to pieces, preparing.

Q. I understood you to say that this hull could have been fitted up for a barge?

A. Yes, sir.

Q. And that you did offer to do that, any you think that you may have told Mr. Kern that you would do it for \$3,000?

A. Likely so.

Q. Now what would she have been worth as a barge, if that had been done?

A. Wouldn't have been worth—Mr. Kern knows what she would be worth to him. I don't know anything about that. She would be worth \$3000 then, if she cost \$3000 to repair her.

Q. She wouldn't be worth any more than that?

A. No, sir.

Q. No more than \$3000?

A. No, sir.

Redirect Examination.

Questions by Mr. ERSKINE WOOD:

Mr. Nelson, when you say there were five kelsons broken, I don't understand myself whether you mean five kelsons broken in two, or broken down.

A. Well, there were five kelsons across the boat about forty feet from the transom way, and the transom broke down about two feet, and you see they broke right apart there.

Q. I don't yet understand whether you meant broken clear in two, or bent down?

A. They were bent down and cracked, you see; cracked enough so it allowed the stern to drop down about two feet.

Q. So badly broken they couldn't be used again as

kelsons in a steamboat?

A. No, not in a first class job.

Witness excused.

WM. B. HONEYMAN, a witness called on behalf of the Libellant, being first duly sworn testified as follows:

Direct Examination.

Questions by Mr. ERSKINE WOOD:

Mr. Honeyman, you made a report, did you not, on the wreck of the Henderson?

A. Yes, in conjunction with Captain Crowe.

Q. What is your business?

A. Engineer, surveyor. I was in the foundry business here for over thirty years. Have been Lloyd's surveyor for over twenty years.

Q. Lloyd's surveyor in this port?

A. Yes, engineer surveyor. More especially machinery than the hull, but we generally act in conjunction with the hull surveyor.

Q. Did you make an investigation of the wreck particularly of salvage machinery and stuff?

A. I did.

Q. What did you do?

A. We examined that when it was hauled out on the ways at South Portland, and made a very thorough examination both of the hull and of the machinery.

Q. Now you say, "we," who do you mean?

A. Captain Crowe and myself. We worked together on the survey.

Q. At whose request did you make the examination?

A. I went at the request of the insurance representatives, Henry Hewitt & Co.

Q. What did the salvage consist of?

A. The engines and boiler, and parts of the hull rigging, such as the rudders and shoe, and some pumps that were aboard, and some of the other equipment there. I can't recall every item of it.

Q. It was mostly in the nature of machinery?

A. Yes, the engines was the principal thing.

Q. And iron work?

A. Yes.

Q. Did you place a value on that salvage?

A. I did.

Q. What was it?

A. On the machinery it was between sixteen and seventeen thousand dollars, I can't recall the exact sum now.

Q. Was that the reasonable valuation?

A. Yes.

Q. Was there any other salvage besides that?

A. Yes, there was oil tanks there; that was part of the equipment, and as I said, there was an anchor there, and some capstans, rudder stocks.

Q. Well, did you include those things in your estimate?

A. That is not the machinery that would come under equipment.

Q. What I am trying to get at was the valuation you put on the total salvage.

A. Well, we made the total salvage, I think, the value of the boat as it was at the time of the collision, we put, my recollection is, somewhere about \$35,000 or \$36,000.

Q. That is the value of the whole boat; that isn't what I am getting at.

A. Yes, the whole boat.

Q. I will show you this paper, and ask if that is the report you made? Is that the report you and Captain Crowe made? You can just look it over.

A. Yes, that is the report.

Q. I draw your attention particularly to an item "Net Present Value, \$16,835."

A. Well, that is of the vessel and the machinery. You see, Mr. Wood, here is the value of the new, and the depreciation of \$11,000, leaving net value \$38,000, and the salvage here, \$16,000, added to this.

Q. That is what I was getting at.

A. That \$16,000 is salvage.

Q. You have it here, \$16,835.

A. Yes, sir, \$16,835.

Q. That is what I meant. That is what you and Captain Crowe valued the total salvage at?

A. Yes. That is for salvage.

Q. That in your opinion is the reasonable valuation?

A. Yes; we went pretty thoroughly into that examination there; was two days on the survey.

Q. As a surveyor of Lloyd's, and a marine man generally, do you know anything about the per day price of hiring river boats?

A. I do. I have hired some in my time, for moving vessels that we had to move. Sometimes by the hour, and have different prices.

Q. What would you consider a reasonable charge for boats like the Cascades, and Shaver, and Henderson, and Wauna, and boats of that class?

A. Well, in our estimate it shows there what our opinion was at that time, after discussion of it; I think \$150 a day is what we put the value of the vessel equipped as the Cascades or Henderson. That includes, of course, the cost of fuel and crew.

Q. What would you say was a reasonable charge per hour?

A. I never got any boat when we were doing business on the boats—I never got a boat to do that less than \$10 an hour. It was generally a lump sum, but that is what it figures.

Q. Were you down at the salvage operations?

A. No.

Q. Were you down at the raising of the boat?

A. No, I never was down there. I never saw it until it was hauled out on the ways at South Portland.

Cross Examination.

'Questions by Mr. MINOR:

What was the condition of the hull when you examined her?

Mr. C. E. S. WOOD: Object to that as not proper cross examination. We have only gone into the question of salvage and hiring.

Mr. MINOR: Beg your pardon. He said he made

a thorough examination of the boat. You said that he made an examination of the boat, and that he found some timbers broken, and went on to say what he found broken.

A. I don't think he did.

Mr. ERSKINE WOOD: I don't think he did.

Mr. MINOR: You certainly did.

Mr. ERSKINE WOOD: I asked him about two items. The value of the salvage, and the per diem cost of hiring a boat. Those are the sole two things I asked him.

Mr. MINOR: I understood you to say—I don't want to go into anything you didn't say—that you made a thorough examination of the boat.

A. I did.

Q. Of the hull?

A. I did. I didn't mention anything about timbers, though.

Q. I know you didn't, but you said you made a thorough examination of the hull. I wish you would tell me what you found upon your thorough examination of the hull.

Mr. C. E. S. WOOD: We still renew the objection as not proper cross examination.

Mr. MINOR: All right.

Q. Go ahead and tell us what you found on making a thorough examination of the hull.

A. Well, my occupation is—

Mr. C. E. S. WOOD: This objection will continue.

Mr. MINOR: I understand.

A. (Continuing) Engineer surveyor, and we generally work together, the hull surveyor, such as Captain Veysey is now, and Captain Crowe was, for the Marine Underwriters of San Francisco. We generally work in harmony, and our report shows that the hull—

Mr. C. E. S. WOOD: Never mind what the report shows. I object to that as incompetent.

Q. You can refresh your memory from the report if you want to.

Mr. C. E. S. WOOD: I think he will have to state from his own knowledge, and not from the report.

Mr. MINOR: No, he can refresh his memory from the report.

A. I joined in the report.

Mr. C. E. S. WOOD: We want you now to testify from your own observation and your own knowledge. You might have joined in a report in which each man took a district and took a department, but you couldn't testify about anything you don't know yourself.

A. Well, I know about the condition we saw.

Q. Very well. Now state what you found there? The condition of the hull when you made this examination of it?

A. Well, we found where the collision had occurred carrying away a large part of the guard on the port side, a distance to the first bulkhead from the bow, and from the force of the blow, apparently, the timbers were loosened there, and some of the frames broken. And I remember distinctly that a lot of the

oakum in the seams was started where the cracks had been strained on the hull.

Q. Did you notice the condition of the timbers in the hull, for example, the kelsons and the frames?

A. Yes, some of them were broken.

Q. What was their condition as to being sound, otherwise?

A. They were sound. There was only a few places where they showed any decay, and that was mostly on the planking, just about what we call between wind and water, the place about the water level; there was a few planks that were soft there.

Q. That is what you call floor timbers?

A. No, this is on the hull, the planking.

Q. Is that what you call floor timbers?

A. No, the planking of the hull.

Q. Refresh your memory from that report to which your attention is called. The same paper Mr. Wood showed you.

Mr. C. E. S. WOOD: Objected to, as it doesn't appear he made that part of the examination, or that part of the report, and it doesn't appear to be his own memory.

A. Well, I think there was just as it was stated there. There was some spots showed that way.

Q. Now, what is your best recollection about how much rot there was?

A. Well, I couldn't say, because Captain Crowe made most of that examination there. He is a ship-builder, and he generally would call my attention to

it if there was anything of that.

Q. You did see that, did you?

A. I did in two places, if I remember, where there were spots just where it showed soft.

Q. Now in this report which you signed, and I understand in which you concurred?

A. Yes.

Q. I want to call your attention to the report of the general condition of the hull. You concurred in that, did you?

A. Yes.

Q. Now I will ask you to state, then, whether you found any part of the hull to be rotten and if so, to what extent you found that?

A. Well, I can tell you without referring to this. I remember that distinctly. I don't need to refer to what there is there.

Q. All right, sir.

A. The hull was in fairly good condition, but with the jar it had from the collision of course it started some of the fastenings. It was evident that had that not occurred there would be none disturbed. There would be several years life in the boat yet. That is the way it struck me.

Q. The floor timbers. Did you find any of them to be rotten?

A. Just where they joined on the hull, was places where soft, but not what I call rotten. They were showing their age a little.

Q. About how much did you find that to be the

case?

A. Just along where it was heated by the boiler, I should say, more or less; I would say possibly 30 or 40 feet out. Some places very little affected, but others were quite soft, just for a small space where the two timbers joined.

Q. Now, Captain,—

A. I have not taken my degree of captain yet.

Q. All right, sir. I beg your pardon. We get in the habit of calling everybody connected with the sea, captain.

A. I never got the stripes on my arm yet.

Q. Mr. Honeyman, then. You looked at the boilers and engines, did you?

A. I did.

Q. And you looked at the equipment which was saved?

A. Yes, I looked that up very carefully.

Q. And upon that you put a net value at that time, as already stated—

A. Yes.

Q. (continuing) of \$16,835.

A. Yes, sir.

Q. And that you think was the reasonable value of it as it then stood?

A. Yes.

Q. Now where did you get that statement of salvaging expenses?

A. Got that from Captain Shaver. They gave us a detailed—

Mr. C. E. S. WOOD: Mr. Minor, you are going into that hull report now.

Mr. MINOR: I am not going into the report Mr. Wood. Mr. Wood asked something about the salving expenses.

Mr. C. E. S. WOOD: I don't recall it if he did.

Mr. ERSKINE WOOD: Excuse me, Mr. Minor, I only asked whether he knew the per diem price of hiring boats, or the per hour price. He said he did. I then asked what that was. I then asked if he was present at the salving. He said no. That is the only time I mentioned salving.

Mr. MINOR: You then asked something about the expense of salving.

Mr. ERSKINE WOOD: I said not a word about it.

Mr. MINOR: Isn't the price of the boat part of the expense of salving; the cost per diem, or the cost per hour of the boats used for salving is part of the cost of salving, as I understand.

Mr. C. E. S. WOOD: Just forms an item.

Mr. MINOR: That is what I say. He went into it to a certain extent. I am not going into it.

'Q. So you don't know anything about what boats were used, or anything about what was done in the salvage of the Henderson, do you?

A. I wasn't present there. I didn't see the boat until hauled on the ways.

Q. All the information you got about that was from what somebody told you?

A. Captain Crowe, I got most of my information.

Mr. C. E. S. WOOD: We admit that; he wasn't present at all, and we only put him on as a man of experience, to say these charges were reasonable. We admit he wasn't down there, and doesn't personally know anything about it.

Q. In the item of salvage, you have the present value of the engines and boilers, and value of extra equipment saved?

A. Yes.

Q. Did you see the extra equipment?

A. I did. I didn't pass on anything that wasn't in evidence there.

Q. What did that comprise?

A. I mentioned a while ago, in my direct testimony, all that I can remember. The engine and boiler, and capstans; some cables, anchor, rudder stocks, the shoe, stem irons, were the principal things. Yes, and the tanks of the oil system.

Q. Were you acquainted with the steamer Cascades?

A. Well, not very intimately. I have been aboard of her, and just casually know her. I know the kind of steamer she is.

Q. Did you ever hire the boat?

A. No.

Q. Are you acquainted with the steamer Wauna?

A. Yes.

Q. Did you ever hire that boat?

A. No.

Q. Are you acquainted with the steamer Echo?

A. No, I don't know that one at all.

Q. Are you acquainted with the steamer Shaver?

A. Yes.

Q. Did you ever hire that boat?

A. No.

Q. Are you acquainted with the steamer Sarah Dixon?

A. Yes.

Q. Did you ever hire that boat?

A. No.

Q. Are you acquainted with the steamer No Wonder?

A. Yes, I know her.

Q. Did you ever hire that boat?

A. No.

Q. Do you know anything about what any of those boats are hired for when they are hired by the day, or the hour?

A. Yes, I know the price of that class, what I paid for them. They run generally about \$10 a day for those larger steamers, and by the hour they would go about \$10 an hour.

Mr. C. E. S. WOOD: You said \$10 a day just now.

A. \$10 an hour.

Q. And by the day?

A. \$150 a day would be a reasonable charge for it.

Q. What steamers would be in that class? Would the Wauna be in that class?

A. No, I don't think the Wauna would.

Q. Would the Cascades be in that class?

A. Yes, so would the Dixon; so would the Shaver; they are good steamers.

Q. How about the No Wonder?

A. The No Wonder not quite as good as the others; might not get more than \$125. She is a good towing vessel.

Q. When you spoke of the Cascades and the Shaver at \$10 an hour—

A. Yes.

Q. You didn't mean that to apply to a boat the size of the Wauna?

A. No. No, I wouldn't put the Wauna in the same class as that.

Q. How much less would she be worth an hour?

A. Possibly two-thirds, or three-quarters of that price.

Q. Two-thirds or three-quarters. And the Echo you say you don't know?

A. The Echo I don't know.

Q. She appears to be a little gasoline launch?

A. I don't know the Echo at all.

Q. You know what a gasoline launch is, don't you?

A. Yes.

Q. What are they worth per day?

Mr. C. E. S. WOOD: I object as not sufficiently described to witness. Should state something her size, her power, and the men she carried.

Mr. MINOR: I don't know the number, or size,

or power.

Mr. SHAVER: I told you.

Mr. C. E. S. WOOD: We can furnish a witness who can answer what it is.

Captain SHAVER: 125 horse power, carries 3 men; strongest gasoline launch around Portland, by considerable.

Mr. MINOR: That is what the Captain says. I don't care to give the Captain's statement to this witness, in asking.

A. I have had little launches not as large as that; only had one man, never more than two, and I paid three or four dollars an hour for them.

Q. By the day how much?

A. Never hired them by the day; hired by the hour. If I had a job down the river, they would take me there and come back. They only charged for the time. I would be away all day, and it would take an hour or an hour and a half to make the trip. But they were much smaller than that. Never had one with more than two men on, and most of the time only one.

Q. Mr. Honeyman, the charges which you give for these vessels, which you paid for these vessels, was for the use of vessels of this character for certain work, wasn't it?

A. Yes.

Q. What kind of work?

A. Generally towing.

Q. Towing around the harbor?

A. Yes.

Q. And did you ever hire these vessels for the purpose of assisting in wrecking a sunken steamer?

A. No, I have been on surveys there, where I knew where they were hired, but I didn't hire them. The parties that owned the vessel hired them, and I was there as the surveyor on the machinery.

Q. Surveyor on the machinery. But you never hired any vessel of that character for that kind of work?

A. No.

Q. You never hired vessels of that character for a period of say a week?

A. No.

Q. Or ten days at a time?

A. No.

Q. Do you know what vessels of that sort would bring if they were hired ten or fifteen days?

A. Well, I have hired for excursions, and have hired for a night, and have hired for a day and a night, and I know that the prices were about that for much smaller steamers than what there are. I never got anything for less than \$100 a day, and that is the Oregon City—the Oregon City steamers are much smaller than any of these.

Q. But that is not much more than a day, you say?

A. That is all.

Q. For a period of ten or fifteen days?

A. I don't know why they should be any cheaper than that. They have to pay their crew, and have to

pay their fuel; have to be on duty on her more than on a regular run.

Q. When a steamer is standing by to aid in raising a sunken vessel, she is not using much fuel?

A. Using some fuel, and the pay roll goes on.

Q. Certainly, but not using much fuel?

A. Not as much as if generating all the steam the boiler would make, but they sometimes have to do that, if they are working their engines, or taking steam to an auxiliary engine for pumps.

Q. But you don't know of your own knowledge what steamers of that character usually bring or are usually worth?

A. Oh, yes, have frequently had quotations made me, when I have to move a vessel, or for a few hours.

Q. I understand, but not for work of this character; for a week or ten days.

A. No, but the expense would be the same, whether you are there towing logs, or towing vessels, or anything else, if you got the power or used the crew, the pay goes on.

Q. So your judgment—

A. My judgment, it would be the very same in that class of work.

Q. You think the same?

A. I think so. The only difference would be a little fuel, and that would be very slight.

Q. You think if a vessel were hired for fifteen days, the vessel would be entitled to just the same pay as for one day?

A. I think so. That is generally the way. They value a vessel at so much, and if they go for one or two or three days, or ten days, you can't tell; whether take one day or ten days, depends on how they can handle it.

Mr. MINOR: That is all.

Mr. ERSKINE WOOD: I move to strike out all of the cross examination of this witness, except such as relates to the value of the salvage, and the price per diem and per hour for boats of the class of the Cascades and Shaver, etc.

Redirect Examination.

Questions by Mr. ERSKINE WOOD:

Now, Mr. Honeyman, they went into the condition of this hull with you. I will just ask you whether, as a marine man, you thought when you examined that hull that it was a fit subject for repairs, to be used again as a steamboat hull?

A. Could have been, but our recommendation was, after examining that, seeing that there was so much of it broken there, we recommended that a new hull be built.

Q. You considered that the workmanlike, seamanlike, practical thing to do?

A. Yes, because the hull was strained and racked so, practically the repair would amount to a rebuild.

Witness excused.

Mr. C. E. S. WOOD: That is our case, with the exception of Mr. Conway, who is coming back with the lists.

JOSEPH SUPPLE, a witness called on behalf of the Standard Oil Company, being first duly sworn, testified as follows:

Direct Examination.

Questions by Mr. GUTHRIE:

Mr. Supple, will you state for the benefit of the record, your business, and your experience in your business?

A. Well, I am a shipbuilder, and I have been at the business on my own hook about 35 years.

Q. Now during that period, Mr. Supple, how many ships have you constructed, approximately?

A. Oh, I suppose 75, anyway, and probably more than that.

Q. What types of boats are those?

A. Since I have been on the Willamette River here they have been mostly river steamers.

Q. Have you been equally interested in the repair of vessels?

A. Yes, sir.

Q. And could you give approximately the number of vessels you have seen rebuilt and repaired?

A. Oh, they would run into the hundreds. I don't know how many.

Q. You are actively engaged in that business now?

A. Yes, sir.

Q. I understood your answer to be—

A. Yes, sir.

Q. Were you familiar with the steamer Henderson, the object of this inquiry?

A. Why, I went and looked at it on the ways after it had been wrecked.

Q. You have know the Henderson before she was wrecked?

A. Yes, sir.

Q. And you were quite familiar with her type of structure?

A. Yes, sir.

Q. Based upon your experience as a shipbuilder, and the repair of boats, especially such boats as run up the Columbia and Willamette Rivers, what would you say the steamer Henderson ought to have been worth taking a reasonable value, in July, 1911, if I tell you that at that time she was about ten years old?

A. Well, that kind of a boat at the present time would cost to duplicate it about \$40,000, and with ten years wear it shouldn't be worth over \$25,000.

Q. You investigated the hulk as she lay on the ways?

A. Yes, sir.

Q. What did you find as to the condition of the hull?

A. Well, it was pretty badly wrecked, and on the port side where she had been stove in, there were 25 or 26 frames, I think, was broke in.

Q. How about the starboard side?

A. No, the port side.

Q. I say, how did the starboard side appear?

A. That was all right. I didn't see anything wrong with that.

Q. What was its general condition?

A. Well, from the wreck, do you mean? From hitting?

Q. I mean looked at from a marketable standpoint. Was it in repairable condition, if I may use that?

A. Oh yes, certainly; certainly it was.

Q. From the inspection that you gave this hull, Mr. Supple, what would you say, having in mind especially your experience in repairing such boats, would it have cost to have rebuilt or repaired this Henderson, and to have put her in as good condition as she was at the time of the accident?

A. Well, I looked it over pretty thoroughly at that time, and I figured I would take the job to put in as good shape as before—

Mr. C. E. S. WOOD: I object to that, not what you would take, you might have special reasons.

Q. Reasonable value?

A. Reasonable value.

Mr. C. E. S. WOOD: Just put it that way; not what you would take to do it.

A. The reasonable value, I would put it at, would be \$16,000, to put in as good shape as it was before the accident, taking all the wreck as it was there.

Q. Now having in mind, Mr. Supple, the experience you have had in repairing hulls, and boats of this sort, what, if any value, would you consider a reason-

able value to be placed upon the hull as she lay on the ways?

A. About \$12,000. That is, the whole thing; the whole machinery and everything, just as that was.

Mr. C. E. S. WOOD: That doesn't answer the question.

Q. Not quite. More particularly throwing the machinery out of the question, what would you have estimated the value of the hull, as a reasonable value?

A. The value—the hull was pretty well worn, and I wouldn't value the hull at—there wasn't over a couple of years more worth in the hull—usage in the hull, at the time it was hit.

Q. Can you tell us, generally, of specific matters that appeared to be worn about the hull, or to have shown signs and evidences of decay?

A. Well, wherever the kelsons rest on the frame, they were all soft, all along; all the kelsons all through the boat; both the frames and kelsons, where one rests on the other.

Q. Generally, then, in rebuilding her what would have been necessary to have put her back in the same condition, or similar condition, to that time of the accident?

A. All you have to do is fix up what was broke; you wouldn't want to renew the decayed part. You want to put her in as good condition as she was before she was broke; would have to fix up what was broken.

Q. Then the estimate that you gave of \$12,000 was

inclusive of the salvage in the nature of machinery, as well as the value of the hull?

A. Yes, sir.

Q. You gave a further inspection to the machinery, as well, did you?

A. Well, I didn't—I am not an expert on machinery. I just gave as good an inspection as I have had—I have bought thousands of dollars worth of machinery, and put in boats, and repaired them, like that, but I am not an expert on machinery, but I have bought several, a great many different things for boats.

Q. Now Mr. Supple, you are familiar with the labor necessary in hauling a hull in a damaged condition, upon the ways, aren't you?

A. Yes, sir.

Q. What in your opinion would have been a reasonable charge for the hauling of this hull on the ways?

A. That depends a great deal on how much trouble you have with it. Of course as quick as the boat is landed there, it is no more bother to float out full of water, than empty. In landing, you get a scow on each side, and as quick as you land, you float the scows away, and of course a great deal more trouble to pull out a sunken boat that way, than an empty boat.

Q. Mr. Supple, let me tell you, there is a bill presented by the libellant for \$310 for services of men and expenses in pulling this boat on the ways at the

Portland shipyards. Is that, or is it not, a reasonable value?

A. Of course I couldn't say as to that, whether it was or not. We get about \$100 for pulling out such a boat as the Henderson. That is what we charge when they are all right, you know.

Q. Do you consider that to be a reasonable charge for the work you do?

A. Yes, that is all right. That is all we charge for that.

Q. Can you tell us what is the per diem wage of men working about these places in pulling the boats up?

A. Yes. We pay helpers in the yard \$3 a day, and charge \$4. We charge a \$1 a day for the men, and give them the use of the tools and the yard, and everything else. We don't charge anything for anything else. That is the way we get our profit at the yard. Charge it on the men working on the boat. We charge \$4 a day for helpers, and \$5 a day for ship carpenters, on all inside the bar work. When on the bar, or going over the bar, we charge \$6 a day; that is a different class of work.

Q. Are you familiar, Mr. Supple, with the cost of operating such a boat as the Henderson?

A. No, sir.

Q. You are not?

A. I don't know anything about it.

Q. Have you ever had much experience in the matter of raising wrecks?

A. Well, no, not—I couldn't say I have. Not very much, no.

Q. When you examined this hull, Mr. Supple, did you notice whether or not there was any sag or hog in the hull?

A. Yes, sir.

Q. And what in your opinion was the possibility of its being straightened up in the condition it should have been?

A. No bother at all about straightening it up, just as good as it ever was.

Q. Have you had experience in so straightening vessels?

A. Yes, sir.

Q. Have you had experience in straightening vessels as badly damaged as that in that particular?

A. Well, I don't know as I have, just exactly as bad as that.

Q. And you had in mind the cost of so straightening the vessel?

A. Yes, sir.

Q. In that estimate that you have given me?

A. Yes, sir.

Cross Examination.

Questions by Mr. ERSKINE WOOD:

Mr. Supple, do you know the condition of the Henderson before the accident?

A. No, I wasn't on the boat. I know it just from a general knowledge of that kind of boat. It was in pretty good condition for a boat ten years old.

Q. You know it was in good condition?

A. Yes, I think it was in pretty good condition, because Mr. Shaver always keeps his boats in good condition.

Q. But you don't know just what her condition was?

A. No, sir.

Q. You hadn't made any recent examination?

A. No, sir.

Q. How can you estimate, then, what it would cost to put her back in the condition she was at the time of the accident, if you don't know what that condition was?

A. Because of a general knowledge of doing that kind of work, and building that kind of boat right along. I know about how much it would cost to put that boat back in as good condition as she would be after ten years of the best kind of usage she could have.

Q. In making the estimate you did, \$16,000 to put her back in the same condition she was, did you take into account equipping her as she was equipped?

A. No, sir. Only general equipment that United States Government requires upon the boat. Nothing outside of that.

Q. And the United States Government requirements are very meagre, aren't they?

A. Yes, sir.

Q. Simply a few boats and life preservers?

A. That is all.

Q. They are a small part of the equipment engaged in towing logs on the river?

A. I should think they would be. I don't know how much equipment that would be.

Q. Do you know what equipment a boat in the log towing business needs?

A. No, I do not.

Q. Do you know what equipment they need for ship towing?

A. No, sir.

Q. So in making your estimate you have left out those items altogether?

A. Yes, sir.

Q. How much did it cost to build boats in 1901, say in comparison with 1911?

A. Well, there is quite a little difference. It would cost, I should think, 25% more now than it did then.

Q. Is that on account of wages, or material, or both?

A. Yes, wages a good deal, and the hours are shorter; at that time we worked ten hours, mostly everybody did, and we paid \$2.50 a day, and \$3.00 a day. Now we pay \$4 a day.

Q. Were you building boats as long ago as 1901?

A. No, not quite. I have been building boats here for twenty years.

Q. Well that would be 1901.

A. Yes, yes, sure.

Q. What would be the cost of building a boat like

the Henderson, in 1901?

A. Well, I should think it would cost somewhere in the neighborhood of \$30,000.

Q. \$30,000?

A. Yes, sir.

Q. You think you could have done it then for \$30,000?

A. Yes, I think so. I think I can show you boats that I have built, to compare with that.

Q. What are they?

A. I can't tell now, exactly. Built the Regulator, and the Dalles City, and some of those boats about that time.

Q. Are they as good boats as the Henderson?

A. I think the Regulator had as much power; otherwise the construction is about the same.

Q. When you speak of building a boat, what do you include?

A. Include what the Government inspection calls for.

Q. And no furnishings beyond that?

A. No furnishings beyond that, no.

Q. When you say this hull was quite capable of being repaired—I want to go into that a little. How much was she hogged?

A. Oh, she was—the starboard side was dropped way down; she was hogged all around, you know; kind of let down. It is just like this: any boat that depends on hog chains to hold them up, it don't make much difference if hogged down and out of shape;

can pull them back, but take a boat depending on its own self, like an ocean boat, to hold itself, if you hog that it is gone, and you can't do anything with it.

Q. I understand these river boats depend partly on the kelsons and partly on the hog chains to keep in shape?

A. If you let the hog chains go, you can't do anything with them. If you let them go don't chain them up.

Q. Don't the kelsons play some part?

A. Yes, if you put the kelsons in big enough you don't have to have hog chains at all.

Q. You never do depend on the hog chains altogether, do you?

A. Yes, sir, pretty near. You don't run any stern wheel boats ever I seen without hog chains.

Q. You can't run stern wheel boats without kelsons?

A. Yes, sir.

Q. Without kelsons?

A. All those boats I built for Alaska—

Q. I am speaking of river going, stern-wheel boats.

A. Those are all river boats. They have only a little strip in them, and are held on hog chains.

Q. Are those the boats for the Alaska trade?

A. Yes, light draft boats for the river trade.

Q. A good deal smaller than these boats?

A. No, as big as these boats, but they are not for tow boats. They tow with them.

Q. A good deal lighter than these boats?

A. Yes, a great deal lighter.

Q. Wouldn't that make a big difference in the use of kelsons?

A. Yes, it makes some difference; that is what I say.

Q. Put it like this: you have built a great many boats here, for use on the Willamette and Columbia Rivers?

A. Yes.

Q. The same type as the Henderson?

A. Yes.

Q. Did you ever build one without kelsons?

A. No.

Q. Why not?

A. Why, you have to have something to hold the boat together with.

Q. That is what I am trying to get at. These kelsons are just as essential as the hog chains?

A. The kelsons are just as essential as the frame itself, the planking, or anything else. It takes all those things to construct a boat, but without the hog chains I never seen one that would hold up.

Q. No, I don't claim so, but I asked if the kelsons didn't participate in that holding up about as much as the hog chains do?

A. No, sir, they do not.

Q. Do you think that when the kelsons are broken down, cracked, broken in two, so that the stern is sunk way down four feet, that it is possible to jerk

that boat up and hold her on hog chains, and just repair those old kelsons, and put her in use again as a steamboat towing on the river?

A. Yes, sir.

Q. As good shape as before?

A. Yes, just as good as before. Get a boat that is hung on hog chains, if it gets out of shape it can be pulled back, and if you put the strength in her, just as good as before.

Q. Suppose the hog chains break after that?

A. Yes, done that lots of times. They break hog chains all the time in the river.

Q. I say that, suppose you had taken the job of straightening up the Henderson by hanging on her hog chains?

A. Yes, sir.

Q. And patching up the kelsons as well as you could.

A. Yes, sir.

Q. And put her into use as a tow boat, and one of the hog chains broke, what would have happened?

A. Nothing; no more than every boat. You refasten the old kelsons all the way through. You refasten it up all over. The kelsons were only strained down a little. You pull it back and there is the kelson like my fingers there. You bolt them all along. I think there was one cracked. You take that out, and put in a new one; maybe two or three, and rebolt them, and it is as good as it ever was.

Q. So after you had bolted the kelsons up, if a hog

chain broke nothing would happen at all, make no difference?

A. Yes, the boat would go down the same just as she did before when the hog chains broke.

Q. I didn't understand you. I thought you said it wouldn't make any difference if the hog chain did break?

A. No, sir. I said if the hog chains broke the boat would go down, and if you pulled it back again it would be just as good as it was before.

Q. If the hog chains broke on a boat with new strong kelsons in, that had never been repaired, what then would happen?

A. It would sag down; wouldn't go down as much as that did, but by rolling the boat over, and turning around, and getting a pull on her, of course that strained her more than if just the hog chains broke and let the boat down.

Q. Then to sum up: if the hog chains broke on a boat in which the kelsons had been repaired, the boat sags down more than it does when the hog chains break on a boat with new, strong kelsons?

A. No. No, sir. Not if you make the hog chains as good as new.

Q. What difference does that make if the hog chains break?

A. Don't make any difference, as I understand, after the boat has been repaired as good as new.

Q. I don't say as good as new.

A. I say she is. If she ain't as good as new, then

she ain't. But I say I can make her as good as before.

Q. I don't want to mislead you, but I do want to understand you. Let's go over it again. This is the way I understand it: if the hog chains break on a boat in which the kelsons—

A. Are new.

Q. All right. Are new.

A. Yes.

Q. She will sag down some?

A. Yes.

Q. If the hog chain breaks in a boat on which the kelsons have been repaired, after they have been broken, she will sag down more?

A. No, sir.

Q. Just the same?

A. Just the same. If as strong, it won't sag more, it will be just the same.

Q. You claim you can make this kelson as strong?

A. Yes, sir, just as strong, every bit.

Q. How many kelsons were broken on this boat?

A. I didn't see any broken; one that was cracked, and of course quite a while—I didn't pay much attention to it. I wrote out a report and gave it to them; whatever that report said, that was true at the time I was there.

Q. You say in your report that the entire sets of kelsons and hull would have to be refastened. By that you mean this rebolting?

A. Yes, sir. Yes.

Q. What do you mean by replacing the kelsons?

A. That is putting in new ones.

Q. Putting in new ones?

A. Yes, sir.

Q. In your report of August 17th—you rendered two reports?

A. Yes.

Q. That is the second one, I think. You say that the damaged kelsons need replacing new?

A. Yes.

Q. So there are evidently more than one kelson damaged?

A. That was under the boilers, wasn't it?

Q. I don't know, it doesn't say so, but perhaps you meant it that way.

A. I forget. It is quite a while ago.

Q. Yes, sure.

A. Yes, the damaged kelsons need replacing new. I think there was one of them was broke, cracked.

Q. You say kelsons, plural?

A. Might have been more than one, I forget; but I knew at the time. Must have been more than one. Those kelsons come in pieces, you know thirty or forty feet long.

Q. I know. After looking at this, you think possibly more than one kelson needed replacing new?

A. I have said that all the time.

Q. How much would it have cost to repair the hull alone?

A. About \$2500 would have been a good price, to put it in good shape, just as good as it was before.

Q. Just the hull.

A. Yes, the hull. The hog posts and hog chains put up again; leave the hull ready for the cabin and machinery.

Q. That was using the old hog chains on the boat?

A. Yes, sir, using everything there.

Q. \$2500 new expenditure on the hull?

A. Yes, sir.

Q. Would you have bolted the new kelsons on top of the old ones?

A. No, sir, would have took out—I think was two of them there—might have been only one—had to be taken out, pieces.

Q. I am talking about those kelsons broken down, that you would have left in. How would you repair them?

A. Anything that was broken I intended to take out. Any piece that was broken. There was a piece there, I think, I would take that out, and would refasten her all over.

Q. It is true, isn't it, that the great difficulty encountered in building these river boats, is to keep them straight. They are so long, and the wheel sticks out so far, and the overhang, the main thing is to keep them straight with their hog chains and kelsons. That is the hardest part of the job?

A. Yes, have to have the chains right, if you depend altogether on chains to hold your boat up.

Couldn't do nothing without. That is what the hog chains are for. If a boat is constructed to go without hog chains, it is a different proposition. If you strain that boat you can't put it back again.

Q. I can't understand why you say it depends altogether on the hog chain to hold it?

A. Because it can't go without it.

Q. Now, you never build a boat on the river without kelsons?

A. Have to have kelsons. Kelsons in every boat, whether you have hog chains in it or not.

Q. Why?

A. Because that is a part of the boat.

Q. And it stiffens her?

A. Certainly it stiffens; holds it together.

Q. Helps hold her up?

A. Holds her, yes.

Q. What boats that have been twisted like this have you straightened up?

A. I don't know as I can name any. I never saw a boat twisted as bad as that.

Q. You never heard of a boat twisted as bad as that being repaired?

A. No bother repairing it at all. I have seen boats with their hog chains broke, and all sagged down, maybe not just exactly as much as this. I don't know as I ever did see one quite as bad as this was.

Q. I mean you never saw any as bad as this attempted to be repaired?

A. Oh, no trouble about repairing.

Q. Answer the question.

A. No, I have never seen any. I never seen a boat as bad as that.

Q. How much does it cost to build a house like the Henderson?

A. About \$8000. \$7000 or \$8000.

Q. And what would it cost to put the machinery in shape to use again on the old Henderson? The salvage?

A. Well, let's see. I guess about \$3000.

Q. How do you base that \$3000?

A. How do you mean, base it?

Q. I mean what was to be done?

A. I couldn't say exactly. I might be a little off \$3000, but I figured it up at the time, and I figured it up I could put her back in as good shape as she was, for \$16,000.

Q. I don't care about the total, I want those separate things.

A. I don't know as I could tell you just exactly about those separate things.

Q. I don't expect you to tell me to the dollar.

A. No, I can only tell you what have done in other boats. I built the Teal, for instance.

Q. I don't care about that.

A. I can only give you as good information as I have got. I can't tell you what I don't know.

Q. That is all I ask. All I ask is your approximation as near as you can get to it.

A. That is all. I could take that machinery and

that wreck and put in as good shape as it was, for \$16,000.

Q. I am talking about the machinery alone.

A. I just forget how I figured it up; all the little items put together to make the \$16,000.

Q. Would it help you to look at your report?

A. No. I just went up there to see about this wreck; to see how much it was worth to tell them what my opinion was. I don't say I am right.

Q. No, I know you don't. Neither do I say I am always right. No man can.

A. No.

Q. How long did you spend in examination of the wreck?

A. Oh, a couple of hours. Crawled all around through it, down around there, and looked it all over as good as I could, and made up my mind from my experience in doing that kind of work, what it would cost.

Q. But your kind of work doesn't include machinery, as I understand?

A. Well, I have bought several thousand dollars worth of machinery, and placed it. I don't pretend to be an expert on machinery.

Q. So you would think that your estimate of \$3000 for repairing machinery is possibly not very trustworthy?

A. Well, of course you can't exactly say just how much it would be.

Q. Well, I mean, do you consider yourself enough

of a machine man to go up there and say, fairly close, what it would cost to put that machinery back in good condition?

A. Yes, yes.

Q. Whom did you make the examination for?

A. Made it for some man from San Francisco. I think he represented the Standard Oil people.

Q. What experience have you had, Mr. Supple, in actually repairing wrecked machinery and putting it back in running order?

A. Well, I have put in a good deal of old machinery. I don't know as you could call it wrecked machinery. It is machinery taken from other boats and put into new boats.

Q. Have you ever taken machinery that was jammed up in a wreck, and smashed and twisted, and put in shape to use again?

A. No, but I have put in lots of old machinery in boats.

Q. What other items go to make up repair, besides the hull, the house, and the machinery?

A. To make up the repair?

Q. Yes.

A. The hull and house and machinery, that is about all I know there is to a boat.

Q. Well, you estimated a total of \$16,000.

A. To put the boat back where it was.

Q. And I wondered what items went into that, because as you have given them now—of course I know just roughly, and from your memory,—they

only total \$13,500.

A. I know. But I allowed something there for to go on.

Q. You considered, then, that your estimate was a very liberal one?

A. Yes, sure; I wasn't going to work for nothing.

Q. How much did you allow for painting?

A. Well, I don't know how much I allowed for the different items.

Q. You didn't submit an itemized statement even in your report?

A. That is all the report, you got right there.

Q. You just went up there for a couple of hours and came back and lumped it off for \$16,000?

A. Yes, sir; I would do the job for that, and I supposed that was right.

Q. Do you think you would make any money doing it at that price?

A. I don't know. I have been here twenty years. I came with half a dollar, and pay \$200 a month taxes, now, and I made it all building boats. I ought to know something about a job.

Q. So once in a while you can take a job cheap?

A. Yes, can afford to lose a little once in a while.

Mr. C. E. S. WOOD: You say you pay \$200 a month taxes?

A. Yes, sir, \$200 a month.

Mr. C. E. S. WOOD: Taxes are too high, aren't they.

A. Yes, you bet your life. When we get Dan

Kellaher in they will be lower. He has his balloon up, I see.

Mr. C. E. S. WOOD: You said you couldn't give the particular item for painting?

A. No, sir, I couldn't.

Q. You couldn't give the particular items on anything that made up this \$16,000?

A. No, sir, I can't.

Q. What is the usual bill for painting a new boat?

A. What is that?

Q. What is the usual bill for painting a new boat?

A. I couldn't tell you that, either. My books will tell it, though; painted lots of them.

Q. Well, could you refer to your books, and let's see about that?

A. Yes, sir.

Q. All right. I will ask you to do that, then.

A. All right.

Q. Hull and machinery. The total salvage you estimate at \$12,000?

A. Yes, sir.

Q. That included everything?

A. Yes, sir.

Q. And \$16,000 to repair; that would have put her back in as good shape as before. \$28,000.

A. Yes, sir.

Q. That would mean the total would have been \$28,000?

A. Yes, sir.

Q. But she was only worth \$25,000?

A. That is all she was worth, but she would have been worth \$28,000 when I got through with her.

Q. I understand you mean all new for old.

A. Yes, sir; had a good cabin on her then, and had an old one on before.

Q. Nothing the matter with the old cabin?

A. No, sir, I don't think so, any more than depreciation after ten years of it.

Q. But it is a fact that the depreciation on a cabin is slight, isn't it?

A. Well, the cabin is so old; the cabin wears out the same as anything.

Q. The heavy depreciation on a boat is the hull?

A. You bet you. Yes.

Q. And if you keep the hull well salted the depreciation is not so great?

A. Salt don't make much difference. I only put salt around the top or heads of the timber, that is all. The rest of the boat hasn't got any salt in it.

Q. Don't you consider salting helps a boat a lot?

A. Oh, yes, some; you put it around the heads of the timbers.

Q. I mean considerable.

A. Yes, we always put it in; if it was no good we wouldn't put it in.

Q. You say you put salt boxes around the heads of the timbers. Is that the only place you salt them?

A. Well, around the head and over the forefoot, and around the bow, and around in there.

Q. Do you salt the kelsons?

A. No.

Q. Do you know whether or not this boat salted the kelsons?

A. No, I don't.

Q. If she did have double salt boxes, salt boxes around the kelsons, would that keep her in better repair or shape?

A. No, that wouldn't help a boat.

Q. Why not?

A. Because only around the bilge anyway. Whenever one piece of lumber hits another, on those boats, and I have repaired hundreds of them, the facts are this: where one piece of lumber hits another, where the kelson strikes the frame, where the planks come from the outside onto the frame, just stick your knife down after a boat is ten years old, and it is rotten around everywhere.

Q. Was this boat in better condition than most of them at the end of ten years?

A. Yes, better; in pretty fair condition, at the end of ten years.

Q. Better than most boats at that age?

A. Yes, better than boats that wasn't taken care of as well as she was.

Witness excused.

ALFRED DUNCAN, a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

What business are you engaged in, Mr. Duncan?

A. Shipwright.

Q. How long have you been engaged in that business?

A. About 32 or 33 years.

Q. At what place?

A. I have been in Portland for 25 years.

Q. And engaged in that business during the time you have been in Portland?

A. Yes, sir.

Q. Have you ever built boats of the same class as the Henderson?

A. Yes, sir, I have worked on them.

Q. Worked on them?

A. Yes, sir.

Q. How, have you examined the hull of the Henderson?

A. Yes, sir.

Q. When did you examine her?

A. I think it was Tuesday, Tuesday afternoon.

Mr. C. E. S. WOOD: This last Tuesday?

A. Yes, sir.

Q. Did you find any part of it to be in a rotten or soft condition?

A. Yes, sir.

Mr. C. E. S. WOOD: Objected to as not near enough to the time of the accident—too great a lapse of time.

Q. You say you did find? What did you find that was rotten or in bad condition?

A. Well, floor timbers and kelsons.

Q. Floor timbers and kelsons?

A. Yes, sir.

Q. Now, Mr. Duncan, from the examination which you made of the Henderson, of the hull of the Henderson, in your judgment, could that hull have been repaired?

Mr. C. E. S. WOOD: Same objection throughout all this examination, as incompetent, and coming too late. Doesn't show that the boat was in the same condition as at the time of the wreck.

A. Yes, sir.

Q. It could have been repaired, you say?

A. Yes, sir.

Q. Could that have been repaired and placed in as good a condition as it was in before the boat was wrecked?

A. Yes, sir; to the best of my knowledge it could by the looks of the boat now.

Q. There is some evidence here that at the time the boat was wrecked the hull was hogged and twisted. Now, when you looked at it, was it hogged or twisted?

A. No, sir.

Q. So if it ever had been hogged or twisted, that had been removed before you looked at it?

A. Yes, sir.

Q. Assuming that it was hogged and twisted at

the time, Mr. Duncan, that it was wrecked, what, in your judgment, would it have cost to have repaired the hull of the Henderson, and put it in as good condition as it was prior to the accident?

Mr. C. E. S. WOOD: Same objection, and not sufficiently qualified.

Mr. ERSKINE WOOD: Not a definite enough question either.

Mr. C. E. S. WOOD: He doesn't know the condition in which she was at the time of the accident.

Mr. MINOR: Well, I will ask some other questions, then, Mr. Wood, if you desire.

Q. Could you tell, from the examination you made, what work had been done on her since she was wrecked?

A. Yes, sir.

Q. How could you tell?

A. By the new timbers.

Q. By the new timbers?

A. Yes, sir.

Q. So you could tell from the inspection which you made of it, what her condition was before the work was done on it?

A. Yes, that is in a general way. I couldn't tell how much she was twisted, or how little she was twisted, but I could tell by the looks of the new timbers what the damage would be.

Mr. C. E. S. WOOD: Couldn't tell how much hog, or how little hog?

A. No, sir, couldn't tell you how much hog, nor

how little hog she had.

Mr. C. E. S. WOOD: Same objection.

Q. What, in your judgment, would it have cost to have repaired the hull of the Henderson after the wreck and to have put her in the same condition in which she was prior to the wreck?

A. Well,—

Mr. C. E. S. WOOD: Same objection, with the additional, he doesn't know what condition she was in before she was wrecked, therefore is not competent to testify.

Mr. MINOR: He said he saw what had been done, so I guess he is competent. You can state.

A. I estimate \$4,000.

Q. What would have been necessary—what would it have been necessary to do in order to repair this hull, and put her in the same condition in which she was at the time the accident took place?

A. What would have been necessary to have been done?

Q. Yes, what would you have had to do?

A. Put 24 pieces of frame down to the turn of the bilge.

Q. What else?

A. There was one or two pieces of kelson that would have had to go in, and there was eleven strakes of plank, eleven or twelve strakes of plank and a good many deck beams. I forget. And about two-thirds of a new deck,—new deck, about two-thirds new deck.

Q. What about hog posts and hog chains?

A. Hog posts and hog chains. That included hog posts, and to put the old hog chains back, straighten the old hog chains and put them back.

Q. Could, in your judgment, the kelsons which you saw there in the boat, have been refastened and made as strong as they were before?

A. Yes, sir.

Q. Was there any difficulty about doing that?

A. Not that I could see. The condition the boat is in now, there would be no difficulty. She had been straightened if she was hogged. She is in fairly good condition now.

Q. In this estimate, Mr. Duncan, did you make any allowance for painting?

A. No, sir; no painting in the hull. I didn't make any allowance for painting.

Q. Didn't allow anything for painting in the hull?

A. No.

Q. Mr. Duncan, have you ever hauled boats up on the ways?

A. Yes, sir.

Q. Boats of that kind?

A. Yes, sir.

Q. Do you know what is the reasonable expense of hauling boats of that character on the ways?

Mr. C. E. S. WOOD: Objected to as incompetent. He doesn't know the difficulties of this particular case with this sunken and wrecked boat.

A. \$100 is what we generally charge.

Mr. C. E. S. WOOD: How much did you say?

A. \$100. That is for a boat that isn't sunk. I am not—

Q. Does that include the labor?

A. Yes, sir.

Q. That includes all the labor too?

A. That hauls them and launches them.

Q. If the boat was sunk, how much would that add to it?

A. Well, it would be all owing to circumstances; be all owing to the condition raised in, how she was raised, might add another hundred onto it.

Q. Wouldn't be more than that, you think?

A. I don't think so.

Q. What is the regular wage paid for laborer's hire in this port?

A. Common laborers?

Q. Common laborers.

A. \$2.50

Q. \$2.50 a day?

A. Yes. But the day's work we charge so much commission on that.

Q. You charge so much commission on that?

A. Yes, sir; that is the wages we pay on a day's work; there is so much commission charged on each man.

Q. Now, in hauling this boat on the ways what kind of labor is used commonly?

A. Well, common laborers!

Q. Common laborers?

A. Well, there might be a carpenter or two on the

job. There might be a couple of carpenters. The rest would be common laborers.

Q. And how much did you pay the carpenters?

A. \$4.00.

Q. \$4.00 a day?

A. Yes, sir.

Q. And common laborers \$2.50?

A. \$2.50.

Q. And how many common laborers would you use?

A. On a job like this?

Q. Yes.

A. Or on an ordinary job?

Q. A job of hauling—

A. A sunken boat?

Q. Yes.

A. Oh, there might be six or seven until the boat was landed. After she was landed, you wouldn't need any more than three.

Q. No more than three?

A. Not after landed.

Q. If sunken, would you use carpenters while sunken?

A. Would use carpenters until landed.

Q. Until she was landed?

A. Yes, sir.

Q. Use about two, you think?

A. Yes, sir.

Q. It appears from the statement, Mr. Duncan, which Mr. Shaver has offered here, that on one day,

he had ten men for half a day; one day he had seven men for one day, and two days he had five men. Now, assuming that he didn't have any more men than was necessary, how many of these men would be carpenters?

Mr. ERSKINE WOOD: We object to that on the ground this witness knows nothing about the condition in which this boat was hauled on the ways, and therefore the testimony is incompetent.

A. How many men would be carpenters? I would assume would be about two.

Q. We start with ten men for half a day. The next day had seven men for one day, and the next day had five men, and the next day he had five men; in other words, he was four days, seemingly, in getting the boat on the ways.

A. I should judge would have a couple of carpenters each day.

Q. A couple of carpenters each day, and the rest ought to be common laborers?

A. Yes, sir.

Cross Examination.

Questions by Mr. ERSKINE WOOD:

Mr. Duncan, you are not proprietor of a shipyard are you?

A. No. I was hired by a company to run a shipyard.

Q. You were foreman of the shipyard?

A. Manager of the shipyard.

Q. How long have you been such?

A. Three years, I have been there, up to lately. I am not there now.

Q. What are you doing now?

A. I am not doing much.

Q. Not doing anything now?

A. For the last three or four weeks.

Q. But for three or four years were foreman of the St. Johns yard?

A. Three years, yes, sir.

Q. Have you ever hauled a boat out on the ways which was sunken, and wrecked?

A. Yes, sir.

Q. When was that?

A. The last one I hauled out that was sunken and wrecked was—I forget the name. Captain Smith's boat. I don't remember the name. I can't remember the name.

Q. The Hester, or Nestor?

A. Yes, I believe it was the Nestor.

Q. How big a boat was that?

A. A small boat, about 90 foot keel, I guess.

Q. 90 feet?

A. I guess so.

Q. Did you ever haul out any others that were sunk and wrecked?

A. I can't remember. I don't know as I have, boats; lots of scows and like of that sunk and wrecked.

Q. You never have hauled out a boat that was sunken and wrecked that was 160 feet long, have you?

A. I don't believe I ever did.

Q. In your estimate of the cost of hauling the boat out, did you include blocking her up on the ways?

A. Yes, sir, when we haul her up, we have to block her up, if we do the work. Now, that is all owing to circumstances. No, I wouldn't reckon on blocking her up if I hauled her out, no; I would haul her out for that much.

Q. You would let her lie in the cradles, wouldn't you?

A. Let her lie in the cradles.

Q. If you had to block her up, how much in addition would that cost?

A. Cost about \$20 a cradle, I guess, to block her up.

Q. How many cradles would there be for a boat 160 feet long?

A. About four, probably.

Q. You never saw the Henderson, or never examined her, before you examined the old hulk last Tuesday, did you?

A. No, sir.

Q. Don't know anything about her up to that time?

A. I knew there was such a boat on the river, yes.

Q. But that is all?

A. Yes, sir.

Q. What condition did you find her in last Tuesday?

A. Well, I found her pretty rotten in places.

Q. Assuming that she hadn't been salted for two

years, and had been lying out in the sun, unused, what difference would that make as to her rotten condition?

A. She—if she hadn't been salted,—did you say—I don't quite understand.

Q. I perhaps didn't state it very clearly. If she has been lying out in the sun since 1911, the time she was wrecked, and has never been salted since then, the wood would deteriorate much faster, wouldn't it, than if she had been well cared for and salted up?

A. Well, I don't know.

Q. What?

A. Wouldn't be a great deal of difference. Of course, would make some difference all right. Every year counts. If the timber is well saturated, and well kept, and salted before, it would stay in the timber now. Wouldn't make much difference.

Q. How often do they salt boats on the river?

A. All owing to the owners. Some salt once; some every two or three years, maybe; all owing to the owners.

Q. Don't they salt boats every six months, and wet them down every three?

A. Some do; known of them done that way.

Q. They that take care of their boats in good shape do that, don't they?

A. Yes, I should judge it was a pretty good thing to do.

Q. Then if she lay out there for two years in the sun, without any salting down and wetting, it would certainly make a difference in how fast the timbers

rotted, wouldn't it?

A. If salted and wet down every six months before that, the timbers would be thoroughly saturated by that, if salted and wet down every six months; wouldn't make much difference with the timber.

Q. Have you ever run a boat, or just worked in the shipyards?

A. Oh, I have run on boats.

Q. On the river here?

A. Never much on this river, no. How do you mean—run as deck hand on boats?

Q. Anything.

A. No, I never run on the river boats here, further than go over to do a job for a few days, and be off again.

Q. You don't really know what the advantages of salting are, do you?

A. I do know about it in a general way.

Q. You don't know from actual experience in taking care of a boat, do you?

A. I know when a boat is taken care of, yes.

Q. That might be. Have you yourself ever had the duty of taking care of a boat?

A. No, sir.

Q. And keeping her in shape?

A. No, sir.

Q. Now, you said that this hull, in your opinion, could have been repaired. I understand you mean could have been repaired fit to use again in a steam-boat?

A. Yes, sir.

Q. Fit to put engines in, and use in the towing business?

A. Yes, sir.

Q. That is what you meant?

A. Yes, sir.

Q. And you estimate \$4,000 for that?

A. For the damage that I see done. I wouldn't put the boat in first-class condition for \$4,000.

Q. What?

A. I wouldn't say I would take the rotten wood out of the boat and replace it right, but the damage, as far as I saw of it, I would do for \$4,000.

Q. Would that put her back in the condition she is in now?

A. The condition she is in now?

Q. Yes.

A. Yes, sir.

Q. Is she fit now to have engines installed in her, and run as a steamboat, and tow logs?

A. Yes, I reckon she is. She shows a little rot in places, and of course, in a few years, the boat would want to be overhauled, no question about that.

Q. Aside from the rot, not considering that at all, but considering the cracked and broken condition of the kelsons, do you think those kelsons are now in shape to run as a steamboat?

A. I didn't observe any broken kelsons. I see some new ones. I didn't see any broke.

Q. When you estimate \$4,000, what do you in-

clude in your estimate?

A. Putting in the frame, planking, deck, hog posts, hog chains.

Q. Did it include painting?

A. No, I didn't estimate any painting.

Q. What?

A. No, I didn't estimate any painting.

Q. Did you estimate anything for re-caulking?

A. Sir?

Q. Estimate anything for re-caulking?

A. Re-caulking, yes. Re-caulking the butts and refastening the kelsons where necessary.

Q. Do you know anything about the hole she had in 'her side, when she was rammed?

A. No.

Q. After she was rammed?

A. Saw the looks of it now, that is all, where the new timbers are in.

Q. If she had a hole in her port bow, about 40 feet long, twisted out of shape, and the stern dropped down about four feet, would that make any difference in your estimate of her repairs?

A. No, I reckon she could have been put back in shape. She is back in shape now, in pretty good shape. She is back in shape. She could have been put back all right for \$4,000.

Q. I say, did you consider this hole and hog I am talking about, when you made your estimate?

A. I say, I didn't see the boat when she was hogged. I couldn't estimate that.

Q. So the only estimate you have made is going down and seeing as near as you can, what condition she was in by looking at the boat last Tuesday?

A. Yes, sir.

Q. And from that, you tell, as near as you can, the condition she was in after the wreck in 1911. Then you make your estimate of \$4,000?

A. Yes.

Q. That is the most you know about it?

A. Yes, sir.

Q. I show you Libellant's Exhibit 10, a picture of the Henderson after she was hauled up to Charley Nelson's yard. Take a look at her, and see if you think she could be repaired for \$4,000 and put in good shape to run in the steamboat business? As good shape as she was before.

Mr. MINOR: The hull, you mean?

Q. Yes, the hull. There is another, Libellant's Exhibit 9.

A. I don't see from them pictures why she shouldn't.

Q. Do you notice that hog on her?

A. Yes, sir; couldn't been much hogged there, as far as I can see. A little bit of hog don't amount to anything, like that.

Q. The testimony is four feet down.

Mr. MINOR: Two feet, as I recollect, Mr. Wood.

Q. Captain Shaver testified four feet down, one corner. Well, just assuming that she was hogged four feet astern, with that hole in her.

A. Well, it would be all owing to how long the hog was. If a short break and short hog of ten or fifteen feet, something was broke; if it was in the length of the boat, it wouldn't do any harm; just throw it back.

Q. What do you mean by landing the boat? You spoke about you need so many men, or ship carpenters up to the time you land her.

A. Well, landing her is landing her on the cradle; when she is landed on the cradle, then you can take your scows away, and haul her up. Landing her is to get her in position on the cradle.

Q. And how many men do you need for that?

A. All owing; sometimes more, sometimes less. I don't know how many, a job like that. I know how many I always use.

MR. ERSKINE WOOD: I move to strike out all the testimony of this witness, on the ground it is incompetent, for the reason that his testimony shows that he knew nothing about the condition of the Henderson before she was wrecked, or after she was wrecked, and that his own information is gained from the inspection made of her last Tuesday.

Witness excused.

JOSEPH PAQUET, a witness called on behalf of the Claimant, being first duly sworn, testified as follows:

Direct Examination.

Questions by Mr. MINOR:

Mr. Paquet, what is your business, and where do

you reside?

A. Well, I am a general contractor.

Q. At what place?

A. What place?

Q. Yes.

A. Portland, Oregon.

Q. For how long?

A. Oh, something over 40 years.

Q. What kind of a contractor have you been?

A. Well, I was—the first contracting was boat building.

Q. Boat building?

A. And from that time, I have done pretty nearly everything that a white man can do, I guess.

Q. Have you built boats?

A. Yes, sir.

Q. Have you repaired boats?

A. Yes, sir.

Q. What kind of boats have you built, and what kind of boats have you repaired?

A. Well, have built stern wheel boats and propellers and small boats, scows, every kind that is used here on the river.

Q. Every kind of boat used on the river. How large boats have you built, stern wheelers, say?

A. Well, built the last Telephone. She was 200 feet long, I think.

Q. Last Telephone?

A. Yes, sir.

Q. And you built them from that down to smaller

ones, have you?

A. What?

Q. Built from that down to small size?

A. Yes.

Q. What kind of boats have you repaired?

A. All kinds; different kinds of stern wheel boats.

Q. Did you repair any large stern wheel boats?

A. Yes, sir.

Q. Mention some of the larger ones that you repaired.

A. I have repaired the Bailey Gatzert, the Telephone, the first Telephone, I built her and repaired her; oh, there were several others built and repaired.

Q. Did you ever raise sunken boats?

A. Yes, sir.

Q. What sunken boats have you raised, and where?

A. Well, I raised the—let's see—I raised the Undine and Telephone, and different ones sunk around the Willamette, two or three up there. Two or three Willamette boats.

Q. How large was the Telephone that you raised?

A. She was 170 feet long.

Q. How large was the Undine?

A. I think she is about 150, 145 or 150.

Q. Did you know the M. F. Henderson?

A. Yes, sir.

Q. How do these boats compare in size with the M. F. Henderson?

A. Well, the Telephone must have been—was

probably about—oh, must have been 20—let's see; probably ten or twelve feet longer than the Henderson.

Q. And the Undine?

A. The Henderson, I think, is 158 feet, and the Telephone was 170, and—the first Telephone—oh, 172 feet, I think she was.

Q. Where was the first Telephone sunk?

A. Sunk right at the mouth of the Willamette, right on the revetment there, around in the piling, right on the revetment at Coon Island.

Q. In how deep water was she sunk?

A. Well, her stern was in about 35 feet of water. She was clear down. The top or roof of the house was clear down under water, and the bow rose up among the pilings of the revetment. Her bow was out of water. Her deck right forward was out of water, and her stern was right down in.

Q. Where was the Undine sunk?

A. Her engines.

Q. Where was the Undine sunk?

A. The Undine was sunk down on the Columbia; oh, about half way to Astoria she was sunk.

Q. In how deep water was she sunk?

A. She was sunk in shallow water, in some—well, her deck was just at the top of the water. They had run her ashore after she—she was sunk deeper, but when I went down there, they had her raised just so you could see her deck, but they couldn't get her any further, and I went down and finished her, brought

her up.

Q. Now, Mr. Paquet, it is in evidence here that the Henderson was sunk in about 27 feet of water at low tide, in that part of the Columbia River which is between Tenas Illihee Island and Puget Island. You know the river down there?

A. Yes, sir.

Q. You know about the size of the Henderson, and about the character of boat?

A. Yes.

Q. She had been in collision with the rock barge tow of the Samson, and had a hole cut in her side. I show you Libellant's Exhibit 9 and 10, which show the cut in the boat. The operations for raising her began within a few hours after the boat was sunk, within a day. Now, I would like for you to tell me what, in your judgment, would have been a reasonable charge to make for raising that boat, and bringing her up to Portland, and putting her on the ways.

Mr. ERSKINE WOOD: Objected to as not having shown enough familiarity with the condition, and as incompetent, and not fully stated as a hypothetical question.

A. It would depend a good deal upon the place where she was sunk, about getting hold of the boat, and getting chains under her.

Q. Assuming that she was sunk—I show you Libellant's Exhibit 7, which I believe shows the boat lying in the water before the wrecking operations began.

A. Oh, I see; that is the way she was. She was above water, floating bottom side up.

Q. That is a picture, is it not, Mr. Shaver, of the boat before you commenced working?

Captain SHAVER: Yes; a little more on her beam ends.

A. Machinery fall out of her?

Captain SHAVER: No.

A. She had wood enough to float?

Captain SHAVER: She ain't afloat; she is on the ground.

Q. Considering the boat sunk where I say, between Puget Island and Tenas Illihee Island, on the Columbia River, in water about 27 feet deep at low tide; that she had a hole in her, such as shown by Libellant's Exhibits 9 and 10, and was lying as you see her down there, in Libellant's Exhibit 7, what, in your judgment would have been a reasonable charge for raising that boat, bringing her to Portland, and putting her on the ways?

Mr. ERSKINE WOOD: Same objection, incompetent, on the ground that the question is not stated; all the conditions not stated to the witness, and he is not familiar with the conditions.

A. Well, it is pretty hard to get the exact case, you know, just looking at a picture, without knowing the conditions of the current, surrounding. Of course, I raised the Telephone by contract; of course, I went and looked at her before I took the contract. Of course, if I had been going to do this by contract, I

would have wanted to look at the boat first. But judging from what it cost me to raise the Telephone, that was about—she was a larger boat—why, I would think ought to be raised for—I would think about \$5,000 would be enough.

Mr. ERSKINE WOOD: May I interrupt, to ask whether you include hauling her up to Portland?

A. Yes, I raised the Telephone by contract for \$3300, but of course after I got her up, I steamed her to Portland.

Q. Are you familiar with the cost in this city of taking a boat like the Henderson from the river, and putting her on the ways?

A. Yes, sir.

Q. What is a reasonable charge for that kind of service?

Mr. ERSKINE WOOD: Same objection; he doesn't know the conditions.

A. For pulling her out on the ways after she was delivered at the ways?

Q. Yes, after delivered at the ways, what they call hauling it out and launching the boat? You know what it means?

A. Yes. Why, we would take it—ought to be about \$200.

Q. Does that include the labor?

A. Yes, hauling her out—that includes the labor.

Q. What kind of labor would you use for that purpose?

A. Well, you always use some mechanics, then

some common laborers; horses.

Q. Do you know what is the price paid here in Portland for such labor as you would use for that purpose?

A. Yes, sir.

Mr. ERSKINE WOOD: When?

Q. I say, 1911.

A. I am interested in a shipyard now, myself.

Q. What is it?

A. I am president of the St. Johns Shipbuilding Company.

Q. What are the prices paid for such labor as you would use for that purpose?

A. We pay \$4.00, \$4.50 and \$3.00: \$3.00 for labor, four and four and a half mechanics.

Q. Four and four and a half for mechanics, and three for other labor?

A. Yes, sir. We pay a little more than ordinary wages for laborers around a shipyard, because we use handy men.

Q. Have you seen the hull of the Henderson since she got up to Portland?

A. Yes, sir.

Q. When did you first see her?

A. I saw her; I was down there yesterday.

Q. Is that the first time you saw her?

A. That is the first time I seen her.

Q. Did you go through her?

A. Yes, sir.

Q. Did you make an examination of her?

A. Yes, sir.

Q. What did you find to be her condition as to being rotten?

Mr. ERSKINE WOOD: Objected to as not competent on the same ground as made to Mr. Duncan's testimony; too long a time after the accident for him to give any testimony as to the condition of the boat at the time of the accident, and the boat has been materially changed.

A. I found some of the floor timbers in pretty bad condition, and some of the frames, the stock timbers and some of the kelsons; the kelsons have been—they have been reinforced with new timber, but there is a part of it there.

Q. Could you tell, from your inspection, here, what work had been done upon her since the accident took place?

A. Yes, you could see the work that had been done to put her in the condition she is now in; shows new yet.

Q. So you could tell from what you saw about what her condition was at the time she was put on the ways?

A. Yes, you could tell pretty well; judge the new timber, see where the old timber was taken out, and the new timber put in.

Q. Now, Mr. Paquet, it is in evidence here that the hog chains on the boat were broken, and the boat was hogged. The evidence varies from two feet as Mr. Nelson testified, and I believe, Mr. Shaver says as

much as, maybe, three or four feet—at the time of the wreck, you understand. Now, assuming that there was a hole in her such as shown by these exhibits you have looked at, and assuming that she was hogged as they say she was, was it feasible to have repaired that hull, and put her in as good condition as she was before the accident took place?

Mr. ERSKINE WOOD: Same objection.

A. Yes, sir; I think it was.

Q. What would it have been necessary to do in order to do that; in other words, what work would you have to do to do that?

A. Well, would have to put her on the ways, and straighten her up, and put in all the broken—replace the broken timber, planking and decking, and deck beams.

Mr. ERSKINE WOOD: I presume it is understood our objection goes to all of this.

Mr. MINOR: Yes indeed.

A. Reinforce the kelsons.

Q. And put on new hog posts?

A. Well, the hog posts are in now; on her now. The hog posts seem to be in pretty good condition.

Q. I understand the hog posts were broken.

A. They put in new footings on the hog posts. I didn't see any new hog posts.

Mr. MINOR (to Captain Shaver): Any new hog posts on?

Captain SHAVER: No, second hand hog posts, but the other is broken and is shorter, perhaps 20 feet

shorter than before. She has two now; only had one before.

Q. She only had one before, now she has two, and the ones she has now are 20 feet shorter,—one is about 20 feet shorter, and the other is an old hog post that they took at the yard?

A. She only had one originally?

Captain SHAVER: Yes.

Q. Assuming the hog posts were broken, and the hog chains were broken, you would have had to put on new hog posts and new hog chains, would you?

A. Could repair the old hog chains. If you had the hog chains, could repair the chains. If she had side posts, put in new posts and repair the chains.

Q. Assuming you did all the work necessary to put her in as good condition after the accident as she was in before, how much, in your opinion, would be the reasonable cost of that?

A. I just made a rough estimate yesterday, after I went over it there, and I figured she could be put in pretty good condition, the hog posts and all, for about \$4500, the work done on her; put the chains back, put the old chains and straighten them out, \$4500. That would be about half the original cost of the hull.

Q. Captain, have you ever hired any boats on the river by the day or month?

A. Did I ever hire one?

Q. Did you ever hire them by the day or month, or hour, or anything of that sort?

A. Yes, we rent one out too.

Q. And rented one out too?

A. Yes, I own an interest in a steamboat.

Mr. C. E. S. WOOD: How long ago?

A. We got it rented out now.

Q. Got boats rented out now, have you? Do you know the Cascades? Do you know that boat?

A. Yes, I do.

Q. Do you know the Wauna?

A. Well, yes; I haven't paid particular attention to her. I know she is on the river here. I know about the size of her, and so on.

Q. And you know, too, about the size of the Cascades?

A. Yes.

Q. And do you know the Echo, a little gasoline launch?

A. Well, I have just seen her passing up and down.

Q. I say a little one ;I don't mean a little one. I just mean little, compared with the other two boats. And the No Wonder—do you know that?

A. Yes.

Q. And the Shaver?

A. Yes.

Q. And the Dixon?

A. Yes.

Q. You know all those boats?

A. Yes, I know all those boats.

Q. Do you know what is reasonable rental for

those boats by the hour? You needn't tell me, but do you know what it is?

Mr. C. E. S. WOOD: I object as incompetent. The witness is not sufficiently qualified by showing he knew the rate paid on such boats as we hired in 1911. What he may choose to hire his own at, or pay others, is not a criterion.

Mr. MINOR: I haven't asked that.

Mr. C. E. S. WOOD: It has got to relate to the year of 1911, summer of 1911.

Q. I will ask him: Do you know what such boats would rent for, here for on the river, in 1911?

Mr. C. E. S. WOOD: That same objection continued throughout.

Q. Do you know?

A. No, I don't believe I do. I don't know what they were renting at in 1911. I didn't hire boats in 1911, that I can remember of.

Q. Do you remember of hiring boats in any year excepting 1911?

A. No. You see, the most towing that I have done is generally done—we tow for so much an hour, or something like that, or day. Most of the towing I have done has been done by smaller boats, towing pile drivers, and scows around, small size boats.

Q. Do you know whether there was any unprecedented demand for boats in 1911? Was the demand for boats that year greater than in 1910 or '12, so that they brought more or less for the use that was made of them?

A. I don't think there was any difference than in 1912.

Q. You don't think it was?

A. I don't think it was.

Q. How about 1910?

A. 1910? I don't think it was in 1910, either.

Q. You don't know of anything peculiar or anything which occurred in 1911, which made a premium upon the use of boats around the Willamette and Columbia Rivers?

A. I think this ordinary—

Mr. ERSKINE WOOD: Mr. Minor, I object to that, unless you confine it to the months of July or August, or the summer season of 1911?

Q. I want to know whether anything peculiar any time in 1911. Do you know of anything which happened in 1911, or any circumstances in 1911 which made a greater demand for boats on the Willamette and Columbia Rivers, and enhanced the value of their service?

A. No, I don't know as I do, out of the ordinary.

Q. Don't know anything out of the ordinary?

A. No.

Q. Now, could you tell me what such boats were reasonably worth in 1912?

A. Well, I don't know what—I never hired any boats, and I don't know what they were—what they were renting them for. Whether by the day or the month. I know we got one hired out now for \$350. a month. That is the only boat I know has been

hired, or that I had anything to do with.

Mr. ERSKINE WOOD: I move to strike that answer out.

A. I have had my towing done here. Go and get a boat, and they charged me so much for it.

Mr. ERSKINE WOOD: I move to strike that part out referring to \$350 for his boat.

Q. How large is your boat?

A. She is about 130 feet long.

Q. How does she compare with the Wauna?

A. What is that?

Q. How does she compare in size with the Wauna?

A. She is a smaller boat than the Wauna.

Q. Smaller than the Wauna?

A. Yes.

Q. How does she compare—

A. I don't think very much difference in power, though. She has got sixteen cylinder, four foot stroke.

Mr. ERSKINE WOOD: What boat of yours do you refer to?

A. Portland Sand Company's boat.

Q. What boat is that?

A. The Pronta. What is the size of the Wauna's engines?

Captain SHAVER: They are twelve—twelve inch.

A. Pronta is sixteen four.

Captain SHAVER: Those are the Manzanilla's

old engines twelve inch cylinder and five inch stroke.

A. Twelve five?

Captain SHAVER: Yes, same size as the Wauna. I thought she was about the same size.

Q. You think the Pronta has about the same power as the Wauna?

A. Yes; Captain Shaver says the same size. I thought they was about the same.

Q. Now, can you tell, during 1905, what would be a reasonable value of the hire of a boat like the Pronta, on the Willamette and Columbia Rivers?

Mr. C. E. S. WOOD: Same objection. These special instances are not competent.

A. I think there was more demand for boats in 1912 than there is just at the present time.

Q. What do you say?

A. I say, I think there was more demand for tow boats in 1912 than at the present time?

Q. That was in 1912, then?

A. Yes, sir.

Q. Can you tell me what would be the reasonable value of the hire of a boat like the Pronta in 1912?

Mr. C. E. S. WOOD: Same objection.

A. I think—I don't know what would be reasonable. I suppose anything you could get. When you can't get \$500. a month, you take \$350. There aint any of them worth only what you can get for them. If there is no work for the boats, they will hire them out cheap. If they got plenty of work, will stick you for all they can get. That has been my experience.

Q. Then, Mr. Paquet, if you owned a boat of that character—

A. I own an interest in her.

Q. I say, if you owned a boat of that character, and a man wanted to hire her, of course you would want whatever you could get for her?

A. Yes, of course, if had no other use for her.

Mr. C. E. S. WOOD: Same objection to all these questions, what he would do.

Q. What I want to know is, do you know what was reasonable for services of that character of boat in 1912?

Mr. C. E. S. WOD: Same objection, and further, the witness has said he doesn't know.

Q. Don't you know the hiring value of these boats?

A. I should think a boat of that size ought to be worth, probably, \$500. a month.

Mr. ERSKINE WOOD: That is the size of the Pronta now?

A. \$500. a month.

Mr. ERSKINE WOOD: Size of the Pronta?

A. Size of the Pronta and the Wauna, yes.

Mr. ERSKINE WOOD: Does that mean with a crew, or without a crew?

A. That is without a crew, you know.

Q. Mr. Paquet could you tell what the Henderson would be worth new, in 1911?

Mr. C. E. S. WOOD: Objected to as not shown to be qualified, and incompetent.

Mr. MINOR: I didn't ask him to tell. I asked him could he tell.

Mr. C. E. S. WOOD: Suppose he says yes.

Mr. MINOR: Then I will ask him.

Q. Could you tell?

A. What she would be worth?

Q. What a boat of that kind would be worth in this market in 1911, supposing she was new?

Mr. C. E. S. WOOD: Same objection. My point is, I don't think you can ask a witness a conclusion. I think you have got to show his qualifications so the court can see it.

A. I think a boat of that kind ought to be worth probably—that would depend on what you want to use it for. Of course, there is a great deal of work a smaller boat could do just as well as a larger one, and if you have to have a large boat, why, you would have to pay more for it. I wouldn't think it would be worth—let's see, the Henderson. What is it? Sixteen, seventeen?

Captain SHAVER: Eighteen seven. 72 inch boiler.

A. Eighteen seven. I would think \$750. a month.

Mr. ERSKINE WOOD: Move to strike as not responsive to the question.

Q. That is not exactly what I want. Mr. Paquet, could you tell what it would cost to build a boat the size and character of the Henderson in July, 1911?

A. I don't understand the question.

Mr. C. E. S. WOOD: Same objection.

Q. What would it cost to build such a boat as the Henderson in July, 1911?

Mr. C. E. S. WOOD: Same objection.

A. The boat complete?

Q. Yes, a boat complete.

A. Let's see. Give me a piece of paper, and I will figure that out. That would be just for the boat, just for the machinery, and hull, and cabin, or fully equipped?

'Q. Well, for the boat fully equipped, you may put it worth, and you may take the items if you choose.

A. Well, I think the boat would cost, fully equipped, about—she would be worth, I guess, about \$38,000.

Q. Assuming that that boat, Mr. Paquet, had been built in 1901, so that she was ten years old; Assuming that she had been well cared for, but run pretty continuously during the time that she had been on the river, how much would such a boat, in your judgment, have been worth in July, 1911?

Mr. C. E. S. WOOD: Objected to as already answered.

Mr. MINOR: No, he hasn't. I said new boat.

Mr. C. E. S. WOOD: If I am not mistaken, your question is, value in 1911.

Mr. MINOR: No, I said new boat, cost to build.

A. I understood him to say new boat.

Q. That is what I said. I say suppose built in 1901.

Mr. C. E. S. WOOD: Same objection.

Q. Had been well cared for, but had been run for all they could be run—for all they could get to do, what would she have been worth in July, 1911?

Mr. C. E. S. WOOD: Same objection. I will add to that, the question doesn't show her actual condition, and whether she was kept up, repairs made, etc., nor the original structure of the boat.

A. Well, the hull—the hull would deteriorate about 50 per cent. The cabin would deteriorate about 25 per cent, the machinery—I would take the value she should be worth about \$25,000.

Cross Examination

Questions by Mr. ERSKINE WOOD:

Mr. Paquet, you say you are president of the St. Johns Shipbuilding Company?

A. Yes, sir.

Q. Are you president now?

A. Yes, sir.

Q. When did you last build any boats?

A. How is that?

Q. When did you last build any boats?

A. Haven't built a new boat for about two years, I guess. I think they built one two years ago.

Q. What boat was that?

A. Oh, I forget the name. I don't stay in the yard myself. I forget the name of her. We build a boat, I think, about two years ago.

Q. Have you been active in the shipbuilding business during the past four or five years, or have you

only built one occasionally?

A. No, I haven't—well, the last boat I built gave my individual attention was the Telephone and the Arrow, those two boats.

Q. When were they built?

A. We are running the yard all the time; we have men all the time, I don't know—I go down occasionally. That is all. Figure on a contract occasionally?

Q. When were those boats built?

A. When?

Q. The Telephone and the Arrow?

A. They have been about—six years ago, I guess. I think about six years ago.

Q. So really your yard hasn't been very active in building boats during the past five or six years, has it?

A. No. But then I haven't forgotten what they cost. I have looked over the figures. They have made estimates there. I have looked over the figures. We have figured on several boats, and I have looked over the figures.

Q. How much has the cost, labor cost and material cost, increased in the past four or five or six years?

A. Hasn't increased very much.

Q. How much has the cost increased since 1901?

A. Since 1901?

Q. Yes.

A. Well, we were paying—1901 we were paying \$4.00 a day for ship carpenters, and, I think, about the same as they are paying now. The only differ-

ence is when we used to work ten hours, and only work eight now.

Q. How about materials?

A. About what?

Q. Materials.

A. Material. There wasn't a great deal of difference.

Q. There has been some testimony here that the cost of building a ship has increased since 1901 about 25 per cent.

A. Well, they figure that 25 per cent—you mean that is on the labor. You see, on account of the hours. In 1901 they worked eight hours, now they work ten, or they worked ten hours then and work eight hours now. That would be 25 per cent. That is where they get the 25 per cent, but not 25 per cent difference in the other material. In fact, iron and material of that kind is cheaper now than it was then.

Q. What would you put the total per cent increase?

A. What?

Q. What would you fix the total per cent increase in cost of building a boat?

A. Difference between cost of building now and 1901?

Q. Yes.

A. Well, I would put it about, probably about ten per cent.

Q. Now, these boats that you helped raise, the

Telephone, I think you said, and the Undine.

A. I have raised several of them.

Q. Well, those are two you mentioned. We will take those two up first.

A. Well, I had charge of those.

Q. What?

A. I had charge of raising them.

Q. The Telephone was wrecked down at the mouth of the Willamette?

A. Yes.

Q. What time of the year did you raise her?

A. Raised in—I think it was in—I don't remember, but it was—I think it was in the fall, the fall of the year; along about October, I think.

Q. Was there much current then?

A. No, there wasn't much current there. It was in out of the current, in against the island.

Q. You didn't have to wait for slack water when the tide flooded?

A. Well, we had to wait for just a little, to get over the piling, to get the scows in, you know.

Q. I say, you didn't have to wait for slack water.

A. To work on?

Q. Yes.

A. No.

Q. You could work all through the day?

A. The current didn't interfere.

Q. And the Telephone, you say, was out against the piling?

Q. Yes, against the piling.

Q. And in about 35 feet of water?

A. About 35 feet of water.

Q. She wasn't tipped over, was she?

A. No, she laid—

Q. Straight up, and as soon as you raised her, she steamed under her own steam to Portland.

A. No, we raised her up, raised her clear above the water, and patched the hull, repaired her right there, so I could steam her up.

Q. What year was that in?

A. I don't remember exactly. It was the old Telephone, you know?

Q. What?

A. It was the old Telephone, you know. I don't remember the year.

Q. I don't care about the exact year. About how many years ago was it?

A. I guess ten or twelve years ago.

Q. The cost of labor was cheaper then, wasn't it?

A. No, there wasn't much difference. You can hire men now for \$2.25 a day.

Q. I am not talking about now. I am talking about 1911.

A. No, wasn't any cheaper.

Q. The same ten years ago as it was in 1911?

A. What?

Q. Do I understand you to mean that the price of labor didn't go up any in the ten years preceding 1911?

A. No, not the kind of labor you have to hire. We get plenty of laborers now. We worked then nine and ten hours you know, \$2.25 a day.

Q. I understand that now conditions are a little duller, and labor is easier to get than it was two years ago?

A. You mean labor was worth more then than it is now?

Q. I am asking whether the labor was worth more in 1911 than it is now?

A. No, I don't think. About the same.

Q. Now, the Undine. That was about half way down to Astoria. What time of year did you work on her?

A. I think that was done in the spring. There was no current, though, wasn't much current.

Q. Didn't bother you?

A. No.

Q. As she was sunk in shallow water, they beached her?

A. No, she was sunk first up to the—about up to the floor, up to the freight house floor.

Q. She was on the beach, was she?

A. Then they raised her. They got her up as far as the deck.

Q. Yes.

A. And it seems they couldn't get her any further. Then I went down there, and finished raising her.

Q. How much water was she laying in?

A. She was in—the water where she sunk must

have been ten or twelve feet of water over her. I think the nose was out, and her stern. When I got there, they had her raised up so was nearly up level with the water.

Q. You took the contract from that time on?

A. No, I went down and superintended by the day to take care of her for Jakie Kamm.

Q. What?

A. I went down to superintend.

Q. Why did they want you to go down?

A. I don't know. They made a failure of it, couldn't get her up. I went down and brought her up to Portland.

Q. Why did they fail, do you know?

A. I don't remember. Did not have anybody that knew how.

Q. How long had they been there?

A. I don't know how long they had been there. I think they had been there a week or ten days. I was there about three days.

Q. Did you state how much it cost to raise her, or do you know?

A. No, I don't know what it cost. Didn't cost very much, though.

Q. She wasn't tipped over there, was she?

A. No, she was right side up. She had—well, she had the hog chains broken.

Q. Had a hole in her hull?

A. Yes, had a hole in her hull.

Q. Collision?

A. No, not a collision. She run on a snag, something of that kind.

Q. Bad hole, was it?

A. Yes, pretty bad hole.

Q. How big?

A. Oh, a hole, I guess, about twenty or thirty feet long, about two feet wide.

Q. Did she come to Portland under her steam, like the Telephone?

A. How is that?

Q. Did she come to Portland under her own steam?

A. No, had to tow her up. Carry her on scows. She wouldn't float. Had to carry her on scows, and pull her up.

Q. How long ago was that?

A. Oh, that has been, I guess,—I don't know exactly—seven or eight years ago.

Q. What?

A. Seven or eight or ten—eight or nine years ago, was quite awhile ago.

Q. How much of a hole did the Telephone have in her?

A. Oh, she had five or six holes in her, all kinds of holes.

Q. She was pretty badly smashed up?

A. She went right in on the piling, you know, then settled right down, and had some piling right up to her.

Q. Did you make anything on that Telephone job?

A. Yes.

Q. Not much, did you?

A. Oh, we done first rate. I was satisfied. Got six or seven hundred dollars, and thought that was enough.

Q. That was good wages in those days?

A. I didn't make as much as some people thought I would, though.

Q. How many boats did you have working down there on the Undine job?

A. How many boats? Oh, I just used two scows. We didn't keep steamboats around there, no use to have steamboats around there when raising her up. They would be in the way.

Q. That is because you didn't have to turn her over?

A. Turn her over?

Q. I say she was upright; you didn't have to turn her over; didn't need boats for that.

A. No, didn't have to turn her over. That wouldn't be expensive, though, to turn her over, I wouldn't think.

Q. We found it pretty expensive in this case.

A. If you had water enough to turn her over.

Q. Mr. Paquet, supposing the Henderson now, was grounded in 27 feet of water, upside down, down near the head of Tenas Illihee Island, and you had to wait for slack water, a current of about four miles against her, how would you turn her over?

A. I would take a look at her first, I would turn

her over all right. I wouldn't be all summer doing it, either.

Q. Aren't you enough of a wrecker to know about how you would get her over?

A. I couldn't tell until I saw her, but when I looked at her, I could tell you pretty quick how I would go at it.

Q. You mean, then, that there is no general rule; that every wreck is governed by its own peculiar conditions?

A. Yes, of course.

Q. Now, I want you to be pretty particular about this, because you know that these men are trying to get what is coming to them, and that is all they want, and they do want that, and your testimony will have a good deal of weight on it. Now, you said that you looked at the old hull of the Henderson yesterday, and that you could tell from that what condition the hull was in in 1911, right after the wreck, so that you could form an estimate of what it would cost to repair her. Now, do you feel that, from the look you got at her yesterday, you can see in your mind the condition she was in 1911, so you could form a correct estimate on the amount of repair?

A. Oh, yes. You could tell. You could tell. You could see the new work that was put on her. I took a look at her generally, too, to see how she stood. She seems to be nice and pretty straight. Her deck seems to be level, no twist in it. The kelsons below—the kelsons I didn't see any broken kelsons at all.

Q. Did you see anything yesterday that would make you know that in 1911 she was badly twisted and hogged after the wreck?

A. No, there was no evidence of much hog there yesterday. Couldn't see—that had all been fixed.

Q. That is what I am trying to get at. The inspection you made yesterday, wasn't enough to let you see how that boat actually was in 1911, after she was sunk, was it? You see, your testimony is important on this.

A. To see how she was after she was sunk, did you mean?

Q. What?

A. You say that—ask that question again.

Q. I want to know whether the look that you took at her yesterday enables you to say with correctness what condition the hull was in when she was hauled out on the ways up there, and about how much it would cost to repair her. Do you feel that you could with honesty, and with fairness to these two men, say that?

A. You could form a pretty good idea. You could see the condition she was in now, and see the new work placed on her, and get a very good idea of the condition she must have been in at that time, and about what it would cost to put her back in as good repair.

Q. Now, you couldn't tell, from your look at her yesterday, that she was badly hogged and twisted because she has been straightened up?

A. Well, I tell you. It don't hurt one of these boats so much to hog and twist them, because they all get more or less of that, because when they break a hog chain, you know—I have seen several—

Q. That isn't what I asked. You can go along and explain those things after you answer the question.

A. That is what I was going to tell you. It don't hurt one of those boats to break a hog chain, and get hogged. You put it on the ways and straighten it up again, and refasten and recaulk them, they return to their original shape then.

Q. That is on the assumption that the kelsons aren't all smashed to pieces, isn't it?

A. The kelsons in this boat are not broken, that I could see. Didn't see any of them broke; examined all of them pretty close, especially aft.

Q. You don't know about 1911?

A. The old kelsons are still in there.

Q. Some of them are new, aren't they?

A. No, not these kelsons. Been just pieces put on each side. But looks as if done more on account of being rotten and decayed than on account of being broken.

Q. What looks to be more on account of decay?

A. That reinforcing was to straighten the kelsons, and more on account of their being old and decayed. I tried the kelsons with my knife, you know.

Q. You couldn't tell what condition those kelsons were in in 1911?

A. No. Could tell what condition they were in yesterday.

Q. You couldn't tell how badly they were broken down, could you?

A. Well, they wasn't broken down enough to break the timber, because if they had hogged, you know, and broke, you could see it on top of the kel-sons. The top of the kel-sons is going to pull apart. Of course, the kel-sons will break on top, and you could see it very plain.

Q. I want to understand. I am not trying to corner you, or pin you down, and don't doubt you are telling what is right. I am just trying to show you your testimony is important here on account of your long experience, and I want you to realize that what you say is going to count for a good deal, and so I don't want you to say anything unless you think it is right.

A. Of course. I want you to understand too, that all these parties are friends of mine, and I don't want to do anything but what is right to all parties. I want to give fair testimony, but of course I am put on the stand—

Q. That is what I mean. I don't see how you can go look at the old hull yesterday, that has admittedly been repaired and straightened, and had a hole in her when she was wrecked 40 feet long, and tell what condition she was in when she was wrecked, so that it is fair for you to say it will cost \$4500 to repair.

A. Well, I will tell you. I think I have made a

pretty liberal estimate on that, because that hull could be built for about \$9,000, and I have given half the value of the hull for repairs. I think that is pretty liberal.

Q. Well, before I leave it. Now, Charley Nelson said that nearly all the kelsons were broken, and Captain Shaver says some of them were. I don't remember exactly what the amount was.

A. You see, I took the length, the number of planks, the number of beams, etc. I counted all this the new work.

Q. May I see this? (Taking paper.) What I wish to ask you is—I show you Libellant's Exhibit 9, suppose you had never seen that picture. Do you think that the examination you made of that boat yesterday would enable you to picture in your mind a hull, like that and say that is about the condition she was in?

A. Yes. I show you what I done.

Q. Just answer that.

A. Yes, sir.

Q. Now show me.

A. Well, you see the whole of the new work is about 80 feet in length.

Q. Where is that new work?

A. The new work I took the planking on the outside, and a lot of frame and deck beams and new plank; the widest place there were twelve strakes in it, the widest place I could see twelve strakes a plank; all narrow. There was one clamp strake they left out,

one clamp strake. They only put one in, generally have two double clamp strakes, and they have only one in, left one out. Of course, if repaired, the other has to be put in, and then new deck. This planking runs in that; start from here. They break joints and they start her with one plank, and run back to twelve, here, and run there the same way. (Illustrating.) 45 new deck beams, made out of four by fours, 24 feet long.

Captain SHAVER: You didn't measure them, did you?

A. No, didn't measure them; just glanced at them.

Captain SHAVER: Must have glanced pretty bad.

A. Well, they wasn't much bigger than that. I don't know what they were. There were forty five anyway, and they are about 24 feet long, the longest of them. About a quarter of the deck was new, you see.

Q. And the kelsons were reinforced?

A. Yes.

Q. Well, so the upshot of this part of your testimony is, although it was two years ago, and you never saw her until yesterday, and Captain Shaver has spent \$1800 in putting her in the shape she is now, excluding the money he put on the house, with these changes, still you can tell how she was after the wreck two years ago, although you never saw her at that time?

A. I can tell what new timber is required to put her in shape, the new work necessary to put her in

shape.

Q. But you can't tell how badly she was hogged, or how badly twisted? I say you can't tell how badly she was hogged, or how badly twisted, or how badly her kelsons were broken down?

A. No, I can't tell how bad. I don't think that what hogging and twisting she done was very much damage to her.

A. No, that isn't what I asked. I asked if you can tell about it.

A. No, I couldn't tell what it was, for she is straight now.

Q. And you can't tell in what shape the kelsons were right after the wreck, if they have been reinforced?

A. You can tell they wasn't broken. You can see wasn't broken.

Q. But they may have been bent down.

A. Yes, might have been bent all right. I suppose they were.

Q. Do you consider she is in good shape now?

A. She is floating all right, and she has all this new work placed. She is considerable rotten now; I run my knife clear up to the handle in places.

Q. You mean in good shape now for steamboat purposes.

A. If she had had that other clamp strake in, she would be in about as good shape, I guess, as she was when sunk.

Q. You think so?

A. Yes.

Q. It only cost \$1800 to put her in the shape she was in now.

A. It ought not to have cost that much.

Q. How do you then expend \$4500 in putting her in the same shape?

A. I would put her in better shape than she is now.

Q. You only meant to put her in shape—

A. \$4500 would put in all the hog chains and re-caulk the butts and parts necessary to caulk, and reinforce the kelsons.

Q. They are reinforced, aren't they?

A. They are reinforced in a way.

Q. And there are hog chains on her now, aren't they?

A. Yes, but not as much as she would have if had a house on her. What I meant was to put her back in shape as when she had the cabin on her, the same condition as she was before she sunk; she had both side and center posts on her.

Q. Do you think she is fit now, as a hull, to put in new machinery, and put in for towing purposes?

A. If she had the hog posts back in her, she would be all right. She would have to have one new cylinder timber.

Q. You think then, if she had new hog chains on, and one new cylinder timber, she would be as good as ever to put heavy machinery in, and go ahead and tow logs?

A. Hog chains put in, and put that other clamp in

her, and put new cylinder timber, and she would be in just as good condition as she was.

'Q. How much would it cost to put those things on her?

A. Well, I placed the estimate at \$4500. She would be made so she would have been a steamboat.

Q. That isn't what I asked. I asked what it would cost to put these additional items that you have just named.

A. I didn't estimate—I didn't itemize—I didn't figure on putting cylinders—

Q. Can't you estimate it now?

A. What—these particular items of cost?

Q. Yes.

A. The hog chains and the—well, I estimated in putting her even. I didn't figure putting new cylinder timber, though; that was as good as when sunk. If it was rotten, and had to be taken out, that wasn't caused by sinking the boat.

Mr. ERSKINE WOOD: I move to strike all that out as not responsive to the question.

Q. I am asking now if you can estimate the cost of putting in these additional items that you have named: new cylinder timber, hog chains, a new clamp strake.

A. Now, the cylinder timber—I guess she could be put in about—the cylinder timber is the only thing I didn't estimate in the other estimate. I didn't figure on the cylinder timber in the other estimate, because it was in the same condition when sunk, but that

cylinder timber alone would cost probably a couple of hundred dollars.

Q. And the hog chains?

A. I figured on hog chains in the other estimate.

Q. I know, but I am asking you.

A. The hog chains?

Q. Yes.

A. Take the new hog chains, and new hog post and cylinder timber, cost about a thousand dollars.

Q. That is for hog post, new hog chains, and cylinder timber?

A. Yes, sir.

Q. And clamp strake?

A. How is that?

Q. I thought you said it still needed one clamp strake?

A. Clamp strake, yes.

Q. What is that?

A. Clamp strake.

Q. I mean how much would it cost to put it on?

A. I don't know as I can give that.

Q. What?

A. Well, you could put the clamp strake in, I guess possibly, for—it would be about—it wouldn't cost over a hundred dollars to put the clamp strake in her.

Q. Well, that is \$1100, and you said that \$1800 was too much cost to put her in the shape in which she was now in.

A. I said that was a pretty good price for it.

Q. So even at \$1800 that would be only \$2900;

that is quite different from \$4500.

A. But when you go to put hog post and cylinder timber and hog chains, those things,—all they put on was planking and frames and deck and deck beams. And then spiked four—just spiked pieces on each side of the kelson.

Q. Now, you estimate \$200 as the cost of pulling a boat that had been sunk out on the ways. Did you include blocking her up after the cables were taken off?

A. No, just pull her out on the cradle, you know.

Q. How much would it cost additional to block her up?

A. Well, if it was necessary to block her up, I suppose it would cost probably—

Q. A boat 160 feet long?

A. Would cost about \$100.

Q. Now, there is another thing that wasn't quite clear to me. You said that you paid the men in your yard three, four and four and a half dollars a day. That is what you pay them?

A. Yes, four and a half is what they pay the ship carpenters.

Q. When you do work for somebody else, if you charge the labor of these men to your clients, what do you charge them?

A. Well, they charge them from fifty cents to a dollar.

Q. Extra?

A. Dollar extra, yes.

Q. Is there a market here for boats? Do boats change hands freely enough here so there is a fixed market price on them?

A. How is that?

Q. Is there a free enough exchange here of boats, are they sold and bought often enough so you could say there was a fixed market price on them?

A. No, I don't know as there is. Generally if you want a boat you have to go and build one, or buy some old one. There isn't a regular market for boats.

Q. I understand you to estimate her value in 1911 at \$25,000, didn't you?

A. About \$25,000, yes, sir.

Q. What?

A. About \$25,000, yes, sir.

Q. How did you arrive at that?

A. I arrived—she would deteriorate—she cost about \$38,000, and I thought she deteriorated that much, about \$13,000.

Q. What items of depreciation did you make?

A. Everything. The hull, the boat, the material, everything; the machinery, hull, cabin, and everything about her.

Q. They all don't deteriorate at the same rate?

A. No, they don't all.

Q. The hull deteriorates much faster than the house and machinery?

A. The hull would deteriorate in that time pretty near fifty per cent.

Q. And the machinery would be less?

A. Not so much, but would be considerable.

Q. Can you give me any itemized statement of the depreciation on these various parts? Have you figured that out at all?

A. No, I don't think I will.

Q. You just lump it off then? \$38,000 down to \$25,000?

A. I just run it over in my own mind. I tell you I didn't give it any too much.

Q. You can't say how much depreciation was on the machinery, or how much on the house, nor how much on the hull, but you just make a lump jump at it?

A. That would depend a whole lot on the way it is used. The condition it is in; the way the boat has been handled, what use they have made of her, whether they have kept her up, and kept it in repair, and all those things.

Q. And how do the Shavers keep their boats?

A. What?

Q. How do the Shavers keep their boats?

A. Well, I don't know. They have used them as tow boats a good deal.

Q. Do you know how they keep them up?

A. No, I don't. I don't think—I think, though, just about like the other steamboat men, keep them in running order so they could use them.

Q. Keep them in good condition, moderate condition, or average condition, or what?

A. Which?

Q. Their boats generally.

A. Why, I don't think—they are not kept up like passenger boats, the boats that run in passenger boats. Of course, they keep them in pretty good shape, and the tow boats not generally kept in the same condition.

Q. I know, may not be kept up with as much bedding, sheets and pillows, and things like that as passenger boats, but as to hull and machinery, and things like that—whether in as good repair as a passenger boat.

A. They generally keep them in repair, keep so will hold together.

Q. Don't they do any more than that?

A. They have to keep them up to stand inspection.

Q. Now, Mr. Paquet, I want you to be fair to the Shavers. Do you mean that I am to understand from your testimony that they only keep their boats up enough to hold together, and stand inspection? Is that all they do?

A. They have to keep them up so they will stand inspection, and do the work.

Q. Are you unwilling to say, then, that they keep them up in good shape, first-class shape?

A. Good reasonable condition.

Q. You are not willing to say they keep them in first-class shape?

A. Well, I couldn't say as to that, because I haven't examined them. Just what I see, saw that boat there yesterday.

Q. You don't really then know their condition exactly?

A. Well, I passed through one of their boats there yesterday. I don't know about the other one.

Q. I am not speaking about yesterday. I mean generally. Do you know their condition?

A. No, I don't know—I never inspected their boats to go through. That is the first time I have inspected one of their boats.

Q. You don't then know the actual condition of the Henderson just before she was wrecked?

A. Only by seeing her pass up along the river here.

Q. That wouldn't enable you to tell?

A. No.

Q. In estimating this \$38,000, as the cost of new boat, what equipment do you put on her?

A. Well, I understood that she had—she was—regular equipment; electric lights and tow boat and tow lines and all those things, and everything that was necessary for a tow boat to have.

Q. Equipped for towing two ships?

A. Towing steamships and logs.

Q. Do you think—

A. I never saw her equipment. I would suppose that is what she had. That is what I concluded; in making my estimate I thought probably—I gave all those things. I thought she had all those parts. I don't know whether she had or not. If she had that, that would be what it would cost.

Q. You mean if equipped for towing two ships at

a time, or two rafts, and equipped in good shape for that, then she would be worth \$38,000 new?

A. She had a regular passenger cabin on her, and staterooms, and I suppose they were furnished good.

Q. You included everything in the \$38,000?

A. Yes, sir.

Q. What equipment does a boat have for towing a couple of ships at a time?

A. Well, they have lines and machinery.

Q. I want you to give me the number of lines and kind of lines, and size of lines?

A. I don't think I will do that. I wouldn't know. I wasn't there to count them. I don't know whether she had any lines or not. She might have had just a couple of lines on her. They can tow a ship with two old lines.

Q. What kind of lines do they use in those boats generally? I am not talking about the Henderson now; any of those boats.

A. They use Manila line, and they use cable, both.

Q. How many?

A. How many?

Q. Yes.

A. They generally use—well, they have a stern line, a bow line and a spring line.

Q. Is that all they have?

A. Then they have one or two extras.

Q. Is that all they have?

A. Five or six lines.

Q. You don't know, though, what lines they do

have?

A. No, I know what they ought to have.

Q. What?

A. I know about what they ought to have. I don't know whether she had been towing ships.

Q. I am not talking about the Henderson. I want to get away from the Henderson?

A. I thought she towed rafts.

Q. I am talking about boats equipped in first-class shape for towing. That is what I want to know. If you know that equipment, and if you do, I want you to name it over to me.

A. That is what I have given to you.

Q. Do they have any breast lines?

A. Breast lines, head lines, spring lines, and stern lines.

Q. What else do they have?

A. That is enough lines.

Q. What do they have in the way of dogs, in towing rafts, and chains?

A. Dogs?

Q. Yes.

A. I don't know. I don't know how many dogs they have.

Q. And cables?

A. They have a cable, have a long cable.

Q. How many?

A. The dogs generally belong to the loggers, however. Use swifters. The loggers furnish them. All the boats furnish is the tow line.

Q. You can't then name over an itemized statement of this equipment?

A. How is that?

Q. You can't give me any of this equipment in detail, can you?

A. No.

Q. Any more than you have done?

A. I don't think anybody could set up here and give the equipment of a steamboat, because there is a lot of things in a steamboat.

Q. You say you have been a contractor for years?

A. How is that?

Q. You are in the general contracting business?

A. Yes.

Q. Do you feel the look—from the look you took at the hull yesterday, that you would have had enough knowledge as to her condition in 1911, to contract to put her in shape, and name a sum you would take for doing the job?

A. Yes, I would have been glad to get the job at my figures, \$4500.

Q. Mr. Paquet, how long is it since you have been in active business, the personal business of yourself, of building and repairing boats?

A. Repairing boats?

Q. Building or repairing. I understand you to say you have sort of retired.

A. I am in the business yet. That is, have a yard there, and I do—I make estimates on—I look over the estimates. I don't go down there and use the tools.

I haven't got in and used the tools for several years. I used to use the tools, but haven't done that for several years.

Q. That isn't what I mean. You know I don't mean that. I may be mistaken, but I understood you are not giving very much attention to the business now, and I want to know how long since you used to be active in the business?

A. I don't stay down in the yard, you know, but I am president of the company, and we meet about once—three or four times a year, and when they have any big work to figure on, they bring the work to me, and I look over that, and see if I think they are safe.

Mr. ERSKINE WOOD: I move to strike that out, and now ask to have my question read.

Question read.

A. How long since?

Q. Yes.

A. Well, since—what do you mean by being in the business?

Q. Well, you used to be,—

A. Since I used an axe?

Q. No, no, you used to be down at the shipyards most of the time supervising the work, didn't you?

A. Yes, sir.

Q. And when you took these contracts, like raising the Undine and the Telephone, you were down there on the job. Now, you don't go near the yard much, but sometimes they submit plans to you. Now, how long is it since you have retired from active at-

tendance on the yard?

A. I guess—the last boat I gave—I superintended the new Telephone. I guess that has been—she is about six or seven years old now, I guess.

Q. That was the last one?

A. Yes, sir.

Q. Do you do much work for Mr. Daniel Kern?

A. How is that?

Q. Does your yard do much work for Mr. Kern?

A. Not very much. We do a little work for him occasionally, I believe. I don't know how much we do do.

Q. You don't know what proportion of his work you do?

A. No, I don't.

Questions by Mr. C. E. S. WOOD:

Mr. Paquet, when did you begin work on the Willamette River, in the shipbuilding business, or the boat building business?

A. Well, I couldn't tell you. You mean when I first began to work on boats?

Q. Yes.

A. On the Willamette River?

Q. Yes, sir.

A. Well, about 1865.

Q. And you then took your own jobs and worked on them yourself?

A. Yes, sir, I took—I built the boats; had a contract and built a boat in 1868. Built the first steam ferry boat at Salem, the first one ever built, the first

steam ferry boat ever built at Salem.

Q. You worked with the tools then yourself?

A. Yes, sir, and superintended the work.

Q. After that you more superintended the job?

A. No, I contracted, and when I was contracting, I used to lay out all the work, and work right along with the men. Laid out the work, and do all my own drafting and everything.

Q. If you will just answer my question. I only want to settle it in my mind. We have had a whole lot of talk here.

A. Yes, too much.

Q. When did you first begin superintending the job, rather than working with your hands with tools?

A. Well on all the boats I have built, you know, I don't—

Q. I don't care anything about that. Wait a minute.

A. I was going to get at it.

Q. I will ask you to answer the question. When did you first begin superintending jobs? Was it before the flood, after the flood, 1856, '63, '78, any time, you may state it.

A. 1868.

Q. Is when you commenced superintending jobs?

A. When did I first commence superintending?

Q. That is, when you first commenced superintending jobs of boat building.

A. Yes, superintend and building boats, and contracting.

Q. When did you first commence to conduct a regular ship or boat yard in Portland?

A. No, we had a yard at Oregon City.

Q. No, I said at Portland. Didn't you ever have a yard at Portland?

A. Yes, used to be up at the old Smith yards.

Q. Joe Paquet's yard?

A. Yes.

Q. When did you first commence to operate that?

A. That is a long time ago. I don't remember.

Q. About how long ago? I don't care if you miss it two years, three years.

A. Give me until tomorrow afternoon, and I will tell you all about it.

Q. We have spent a whole afternoon now in a lot of rambling reminiscences.

A. That is the way I think too.

Q. I want to know, when did you commence to operate at the Joe Paquet shipyards near Portland—boat yard?

A. I tell you I went from Oregon City to the Cascades—

Q. I don't care anything about your ramblings. I want to know when you commenced that boat yard in Portland. And I only want it approximately. I don't care.

A. Wait; I will get it pretty soon. That was somewhere between 1870 and 1880.

Q. How long did you operate that boat yard yourself?

A. Let's see. The last that I built up there was the new Telephone. That was about six or seven years ago, I guess.

Q. Did you—were you incorporated then?

A. Never was incorporated as a boat builder. Worked as an individual.

Q. So that was your own individual business?

A. Yes, sir.

Q. What is this St. Johns Shipbuilding Company, an incorporation?

A. Yes, sir.

Q. When was that formed?

A. That was formed in—well, that has been formed about—let's see. I don't remember. I don't remember just what year. Been probably seven or eight years, I guess, six or eight year.

Q. And since that incorporation was formed, you haven't operated your own individual boat yard?

A. No, I think I built the Telephone since we incorporated.

Q. At your boat yard?

A. Yes, I built that myself since we incorporated.

Q. And that was the last boat to which you have personally given your active supervision, is it?

A. Yes, sir.

Q. Do you know of any houses on boats here that you built as much as 25 years ago? Are any of them in existence?

A. Houses?

Q. Yes, cabins?

A. No, I don't know of any.

Q. What?

A. No, I don't know of any. I don't know what—I don't know that—

Q. Was the Telephone's house a new house, or taken from an old boat?

A. The new Telephone?

Q. Yes.

A. The lower house was new, but we moved the old house over onto it.

Q. From the old Telephone?

A. Yes, sir.

Q. Where did it come from for the old Telephone?

A. Where did it come from, on the old Telephone?

Q. Yes.

A. Was built on the old Telephone.

Q. Was built new?

A. Yes.

Q. I understood that the house on the new Telephone had had three removals; that is, it had been on three boats.

A. No, the lower house, the freight house was new, and the upper cabin was the old Telephone.

Q. But you say it was new for the old Telephone?

A. And was repaired.

Q. How many years ago was that?

A. That is, when she was built.

Q. The old Telephone.

A. The old Telephone, when she was built?

Q. Yes.

A. I guess she must have been built 18 or 20 years ago.

Q. And the house of the Lurline is about 30 years old, or over, isn't she?

A. I guess it is.

Q. I know I rode in it when I was a young lieutenant in the army.

A. This was repaired. The Telephone's upper house, you know, after moving over, was rebuilt and changed, and fixed all over.

Q. Did you answer the question, I think you did, as to what was the trouble about the Undine that they had to send for you?

A. I don't know. They got her part way out, and it seems they couldn't get her any further.

Q. Do you know why that was?

A. I guess they wasn't—they didn't understand the business at all. They didn't have anybody there that—Charley Kamm sent for me.

Q. Then there is something in the wrecking business requiring experience and skill, isn't there?

A. Yes, requires some skill and experience.

Q. Any professional wrecking company in this country?

A. I don't think so. I used to raise boats whenever they asked me to. I raised several of them.

Q. So if a man says it took fifteen days to raise a boat, you can't tell whether that was justified or not, unless you know all the facts? Might have been currents or tide, or get it half way up and slip back, any

one of a hundred things might happen. Isn't that so?

A. Yes, might be poor management, too, same as the Undine.

Q. Certainly, might be.

A. If they understood it, they could have raised her just as well as I did.

Q. Yes. I am not talking about the Undine. I am talking generally. You can't say whether a wrecking job was well managed or badly managed, unless you know all the facts, can you?

A. No, of course not.

Q. Well, much obliged. That is all.

Redirect Examination.

Questions by Mr. GUTHRIE:

Mr. Paquet, from your experience in handling these hulls when they are drawn up on the ways, is, or is not it necessary in order to remove machinery from such a hull as that, as was shown you by the photographs—is it necessary to block up the hull in order to take that out?

A. No, you can straighten them up on the cradles all right. When they are hauled out, they are sitting on the cradles, and the cradle is not always perfectly level. And then there would be just blocking—some of the cradles would have to be raised a little in places.

Mr. C. E. S. WOOD: Would you be willing to say, without knowing any more of the actual facts than you now do, that the people who took the Henderson out of the water and blocked her up, made a blunder in doing that?

Mr. MINOR: No evidence here to show she was blocked up. I never heard it.

A. No, I suppose they took her out, and blocked her up to get the cradles out from under her. Blocked her up to get the cradles, I guess. Wanted to use the cradles for something else, I guess.

Mr. C. E. S. WOOD: Well, I don't think it is worth while to waste time on that.

Witness excused.

Whereupon proceedings herein were adjourned until 10 A. M. Saturday, May 24, 1913.

Portland, Ore., Saturday, May 24, 1913, 10 A. M.

ROBERT M. McINTOSH, a witness called on behalf of the Claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

Mr. McIntosh, what is your business?

A. Ship carpenter, contractor.

Q. How long have you been engaged in that business?

A. Over 30 years.

Q. And what is your present business? Just a carpenter, or do you have charge of some work?

A. I am lining ships just now, and repairing ships just at the present time.

Q. Did you see the hull of the M. F. Henderson?

A. Yes.

Q. When did you see it?

A. It was Wednesday or Thursday, last Thurs-

day, I think.

Q. Now, when you saw it, could you judge from what had been done, what her condition was before the work was done on her? Could you tell what her condition was before the work was done on her?

A. Yes, certainly.

Q. Well, was her condition such that that hull could have been repaired and made as good as it was before the accident occurred?

Mr. ERSKINE WOOD: I object to this on the same ground as was made yesterday, with the witnesses, as not showing he was familiar with the condition of the Henderson at the time of the wreck, and therefore his testimony is incompetent. It is apparent from his own statement that the only time he has seen her since the wreck was within the past week, nearly two years later than the wreck.

(Question read.)

A. Yes.

Q. What would have been necessary to do in order to repair her, and make her as good as she was before the accident occurred?

Mr. ERSKINE WOOD: Same objection.

A. Well, they would have had to have her hauled out on the ways, or put in dry dock, straighten up the broken parts, repair, refasten, recaulk, new deck beams put in where they was required.

Q. It is in evidence here that the boat at the time of the wreck was hogged. I show you Libellant's Exhibit 9 and 10, which show you she was hogged.

Would the fact that she was hogged, prevent her repair?

A. No, sir.

Mr. ERSKINE WOOD: Same objection goes to all of this.

Mr. MINOR: All right.

Q. Could you see what new work had been done on the boat since the accident?

A. Yes, sir.

Q. You examined that, did you?

A. Yes, I examined that.

Q. Leaving out of consideration the replacing of any timbers which were rotten, Captain, or decayed, what, in your judgment, would have been a reasonable charge for repairing that boat,—that hull, I should say, and making her as good as she was before the accident occurred?

A. Well, I went into that very closely, and figured it up, and took quite a little time to do it. I think \$4,000 would be a reasonable price to fix that boat up as good as she was before that.

Cross Examination.

Questions by Mr. ERSKINE WOOD:

Mr. McIntosh, what did you say you were doing now?

A. I am working on the British boat Caledonia just now.

Q. Are you in charge of the work?

A. Yes, sir.

Q. Have you a yard, or anything where you repair ships?

A. No, I use the dry docks when I have any repairs to do.

Q. What dry dock do you use?

A. Both of them; both the Oregon dry dock and the Port of Portland dry dock.

Q. What kind of repairs is it your business to make?

A. All kind of repairs, planking, decking, keels, rigging, everything connected with a ship.

Q. What boats have you repaired after they were wrecked, in the last five or six years?

A. The last one was September, a year ago. The San Jacinto, belonging in San Francisco, she was wrecked, snagged the whole bottom out. I made repairs to the amount of \$12,000.

Q. Did you take it by contract?

A. By contract.

Q. What others?

A. The next one was the light house Department, the steamer Columbine.

Q. Was that wrecked?

A. No, she wasn't wrecked.

Q. I am talking about boats that have been wrecked?

A. Well, I don't know any that was wrecked that I have repaired, only that one.

Q. Only the San Jacinto?

A. That is all.

Q. In all your experience?

A. Oh, yes, but within the last five or six years.

Q. Have you ever repaired any of these river boats?

A. Yes.

Q. Have you repaired them after they have been rammed and sunk?

A. No, sir.

Q. Never have?

A. No, sir.

Q. How long have you been engaged in this contracting business that you are now in? I understand that formerly you were in charge of the operation of the Port of Portland dry dock?

A. Yes, sir.

Q. And since then have been in the contracting business?

A. Yes, and before too.

Q. How long have you been in the contracting business, then?

A. Before that?

Q. Any time?

A. Well, I signed a contract in 1882, and from that time up to 1902; then was in the dry dock for five and a half years; and started in contracting after I quit the dry dock.

Q. How long have you been in the contracting business here in this port?

A. In this port?

Q. Yes.

A. 30 years.

Q. And in all that time, you have never had an occasion to repair any of the river boats that have been sunk?

A. No, sir.

Q. When you said that \$4,000 would fix the boat up, to use your own words, you meant the hull?

A. The hull only. Then I would have to have the hog chains to do that.

Q. That would be a condition of the \$4,000?

A. Yes, they would have to furnish all the chains. We consider that—practical ship carpenters always allow she will have the iron work furnished them.

Q. Now, you saw her last Thursday, I understand?

A. Yes, last Thursday, Wednesday or Thursday. I was there twice.

Q. You didn't see her when wrecked?

A. At a distance when was on the ways; that is all.

Q. You didn't see her at all between the time she was wrecked and last Thursday?

A. No, sir.

Q. And you think that last Thursday, you could tell from your examination of her, the condition she was in when she was wrecked?

A. I could.

Q. Describe that to me?

A. She is in now?

Q. No, when she was wrecked.

A. You mean the damage that was done to her?

Q. Yes.

A. I would say that is a pretty good idea in the photograph.

Q. I know, but you never saw those at all. Just put them out of your mind. I am sorry you saw those.

A. I saw the boat from the river, so it would be the same thing whether I saw the photograph or not, and the appearance of the boat would show me what the damage was.

Q. I want you to tell.

A. I could see a hole in her there, probably about 40 feet long.

Q. All this you are stating to me now, you got from your examination last Thursday?

A. Yes, sir; from appearances it consisted of twenty four frames; not full frames, only timbers.

Q. I don't care about the repairs. I want the condition.

A. The condition she was in then would be about —the hole extended just below the bilge, about 40 feet from the top of the gunwale, top the boat, top of the hull, where the beams go across; the shear strake, that is the gunwale; 40 feet was gone, and went down to the turn of the bilge, which extends about through, about 9½ to 10 feet in depth, measured by the girth, and she would have been dropped down naturally from 2½ to 3 feet in the after end anyhow, and not

quite so much forward.

Q. Could you tell that from your examination yesterday?

A. Could tell she was dropped down aft, for she was pulled away from the butts. You could put your finger in; that shows she was dropped down.

Q. The testimony shows she is in good shape now.

A. Good shape now, contour perfect now.

Q. Go ahead; what else was her condition?

A. That is all the condition I could give you.

Q. All you could see from your examination Thursday was she had a hole in her about 40 feet long, ten feet down, measuring down the girth, and she was dropped down from the stern; and you could tell from your examination yesterday that she was dropped down from the stern, and you don't state that from what you heard?

A. No.

Q. How much was she twisted when she was hogged?

A. She might not have been twisted at all.

Q. You don't know whether she was or not?

A. I don't know. She may not have been twisted at all.

Q. What was the condition of her kelsons after she was wrecked, each one of them?

A. After she was wrecked?

Q. Yes.

A. I can't tell you that.

Q. Then, as a matter of fact, you can't, and no

man can go down there and look at that hulk now, after she has been repaired, and say what condition she was in when she was hauled out on Charley Nelson's way, can they?

A. No, I don't think they could; really and truly. I don't think they could.

Redirect Examination.

Questions by Mr. MINOR:

Did you look at the kelsons, Captain?

A. Yes, sir.

Q. Were they broken?

A. No breaks I could see; might have been broken, but was clamped together; pieces of wood each side, and couldn't see it had been broken.

Q. Were the old kelsons in?

A. All the old kelsons were in there.

Q. And if she was twisted, would that make any difference in your estimate about repairing it?

A. No, sir; very easy to get the twist out of a boat of that kind. That is the simplest thing in the world.

Witness excused.

PETER CARSTENS, a witness called on behalf of the Standard Oil Company, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. GUTHRIE:

Mr. Carstens, can you tell generally what has been your experience, in relation to boats, shipbuilding and navigation, about these waters, on the Columbia and Willamette Rivers?

A. Well, I think I can, yes.

Q. Now, tell that for the benefit of the record, so the judge who reads the record will know how many years you have been in that business?

A. Well, I have been with the O. R. and N. Company for 32 years, and I started in the business when I was thirteen years old, and have worked at it every day since, and I am 70 years old, and have always been connected with steamboats. Either building steamboats, or running steamboats. I ran steamboats up on the Great Lakes for five or six years. The balance of the time, I have been patching up and building steamboats; been at it all my life.

Q. About how many years have you been about Portland?

A. In Portland? Well, I came here in '66; no, let's see—'69, I think it was when I came here.

Q. And you are over—

A. I am not correct in that. '72, I believe, I came to Portland.

Q. And your work about Portland was with the O. R. & N. Company?

A. Well, not to start with here. I was working here for myself the same as McIntosh for two or three years. Then I started in for the O. R. & N. Company.

Q. Are you familiar with such boats as the Henderson?

A. Yes; I been handling that kind of boats most all the time.

Q. And you are familiar with their construction?

A. Yes, sir.

Q. And the methods of repair?

A. Yes, sir.

Q. Now, do you recollect about the 14th of August, 1911, of having made an examination of the Henderson after she was wrecked in the Columbia River?

A. Yes, I remember being down there.

Q. Now, will you state generally what was the condition of the Henderson when you made that examination?

A. Well, when I made that examination, she was hauled out on the ways up in South Portland, and her whole cabin and hog chains and everything was out of her; the rigging and everything; and the boat at that time were blocked up so that she were in her natural shape pretty well; but she had been out of shape a great deal; in fact, when the hog chains break in them boats, they go out of shape anyway. They hogs on both ends. But besides that, her decks were all wrecked up, and her guard—about 30 feet from the stem fore and aft, her deck beam was all broke out, and she had a hole in her right abreast of the boiler, about 40 feet long, and clean down below her bilge. They were taking about 12 or 14 strake of planking there to patch up that hold; that didn't need to go the whole length of the boat; but pretty well about half the length of the boat; but her deck would have to be taken out, and put new deck beams on her, and that would interfere with the guard on the other side.

Q. Did you at that time make an estimate of what it would cost to repair her?

A. Yes, I did.

Q. Do you recollect what that estimate is, or was?

A. No, I don't. I got to get it out of my report here.

Q. Now, I will hand you a paper, which is a copy, or purports to be a copy of a letter written by you August 14, 1911, to the Standard Oil Company.

A. Yes.

Q. I will ask you whether or not you can recognize this as being a copy of a letter written by you at that time?

Mr. C. E. S. WOOD: I object to that as incompetent.

Mr. GUTHRIE: We have offered it.

A. Yes; that is my estimate of that thing for repairing. Of course, that ain't any clue to any furniture on any ship,—things lost. I suppose everything were lost at that time.

Q. If you use this for the purpose of refreshing your recollection, as you recollect your estimate to have been, what would you say would have been the cost of repairing that hull?

Mr. C. E. S. WOOD: We renew the objection.

A. After the collision?

Q. Yes. Now, that you have refreshed your recollection, by this, what would you say of your own knowledge, based upon the refreshment you have had, it would have cost to have repaired that hull?

A. I estimate here \$4162. And the labor building the upper works would be \$8,812. And moving this machinery over would be \$2,000. Of course, I didn't know at that time what condition that machinery would be in all together. That might be gone over and overhauled after fishing out, or might be bad, I couldn't tell that, under that circumstances.

Q. Now, Mr. Carstens, then do I understand that it is your opinion that about \$4100 would have been a fair cost of repairing the hull?

A. Yes, I think it could have been repaired for that amount.

Q. And were you familiar with the Henderson just prior to her collision and the wreck?

A. Well, nothing more than seeing her running up and down the river.

Q. You know about what her condition would have been, in good shape as she was kept?

A. Well, she was always—her appearance always kept up in good shape. That company generally keep up their boats in good shape. They always look well, and keep up pretty well, everything.

Q. Now, with your experience as a shipbuilder, what do you think a vessel like the Henderson would be worth, allowing ten years for depreciation? She had been used, I understand, ten years at the time of the collision, having incidental repairs to keep her up only.

A. Well, I would think she would be worth about \$20,000, but that don't include any of her furniture

at all. I mean just the hull and machinery and cabin, stripped from everything.

Q. Could you make an estimate what her apparel and furniture would be worth?

Mr. ERSKINE WOOD: I object, unless he knows.

A. No, I couldn't hardly. In a rough way, I suppose it would be five or six thousand dollars anyway.

Q. Did you see the machinery, and the hull both when you were at the south Portland ways?

A. I didn't. I saw, but I didn't examine the machinery particularly. I suppose he had another man do that.

Q. What value, if any, would you have placed upon the hull alone, as she stood there in her damaged condition, as salvage?

A. As far as that goes, I wouldn't give a dollar. It was just a question whether she could be repaired and used for some time.

Q. From your examination of that hull, Mr. Cars-tens, about how many years' life would that hull have had if she had not been wrecked, do you think?

A. Well, she probably could have been run a couple of years; for two years more, but then she would have had to have pretty good repairing, overhauling. The bottom timber were pretty soft all around the boat; they wouldn't last more than a couple of years more.

Q. She would have needed a considerable repair around where there was decay, would she not?

A. There would be quite a job because it would be hard to replace them without taking the whole bottom out of the boat. Her bottom planking were good as ever, but you can't put in floor timber without taking them all out; put in floor timber, and then put a new bottom in again. That, of course, is quite a job.

Q. What is your opinion as to whether or not the hull could have been straightened up and rebuilt, and put in substantially as good condition as she was when she was wrecked?

A. Well, she could have been done, for my estimate there, for \$4,000—whatever I said—and been placed as good as she were before—\$4800 was it? You have to go by the statement, really. I don't remember the thing.

Q. Do you remember whether or not you made any estimate or do you now have an opinion as to the value of the machinery in that salvage? The boilers, etc., that were recovered?

A. No, I didn't make any estimate of her machinery at all at that time. Mr. Honeyman was there for that part, I believe.

Q. And what experience have you had in recovering wrecked vessels after they have been wrecked about the river here?

A. Well, I raised a good many sunken boats in all the rivers. Snake River and Willamette River and Columbia River, and out here—I don't know how many all together; a good many put together.

Q. In the work of recovering wrecked vessels, can

you state whether or not it is ordinarily necessary, reasonably necessary to have two steamboats alongside with power, for a period of 14 or 15 days?

A. Well, I never had only one steamboat to help me when we were wrecking, and I hardly ever get that, some times, but there are probably cases where there would be benefit to have two; for instance, when wanted to change about, two steamers could do twice as quick as one could, because if only had one, would have to shift from one side to another; if you had two, you could take two sides together, and snake a chain under.

Q. How long, Mr. Carstens, ordinarily, would it take to pass chains under her hull?

A. Well, I don't think anybody could estimate on that. That depends on the bottom altogether, how the bottom lays. If a mud bottom, could snake under in a day or two, but might be hard bottom or rock, stump or something there; might take a week.

Q. You would hardly think it necessary to take 14 days, would you?

Mr. ERSKINE WOOD: That is leading.

A. Well, I shouldn't think there would be. That would be a pretty hard case. I had to—some times have to get a diver down and poke a hole underneath with an iron piece for a chance to get a chain under; there were stumps and things, so couldn't snake them under, and go to do that, and it would take quite a time. But I don't think it ever took me over five or six days before I got a chain under her, and sometimes

I got them on her in a day.

Cross Examination.

Questions by Mr. MINOR:

Mr. Carstens, I show you a paper, which purports to be a copy of a letter signed by you, and addressed to Mr. R. L. Hague, dated August 18, 1911. Did you write to Mr. Hague at that time about the Henderson?

A. No, I don't remember who Mr. Hague was.

Mr. C. E. S. WOOD: I object as incompetent, and not even competent to refresh the witness' memory on a memorandum which he did not make.

Q. Who is Mr. Hague?

Mr. GUTHRIE: I suppose a Standard Oil agent. He is new to me. I never met him. I suppose he is one of Mr. Rolf's agents.

Q. This purports to be a letter in answer to one which you got from Mr. Hague, who, I suppose, had something to do with the Standard Oil Company. I don't know that he had, but I suppose is an agent of the Standard Oil Company up here. Do you remember writing a letter to an agent of the Standard Oil Company?

A. Yes.

Mr. C. E. S. WOOD: Same objection. It is neither the original, nor the original memorandum.

Q. Now, in this letter, of which this purports to be a copy, I find this language used: "The valuation of the Henderson as it now stands on the ways of the Portland Shipbuilding Company, taking into consid-

eration the damages and depreciation is as follows: Hull, \$1500; machinery, oil tanks, water tanks, iron work and equipment left, \$12,000." Do you remember making an estimate of that kind?

Mr. C. E. S. WOOD: Same objection.

A. Well, I expect I did. I don't remember that, but I suppose I did. I don't remember my writing, but I expect I did.

Q. If you did make such an estimate as that, that was made after your examination, was it?

A. Yes, sir.

Q. And it set forth your opinion at this time?

A. Yes.

Q. And what is your best recollection—that you did make some estimate of that character?

A. Well, looking at that, I expect I did. I want to hold that. I expect I done it. My memory isn't very good, and I done quite a bit of business since I done it, and that slipped out my memory, you understand. I never thought of it afterwards.

Q. I show you what is a copy of the same letter, which Mr. Guthrie showed you a little while ago, a letter of the 14th of August, 1911, addressed to the Standard Oil Company.

Mr. C. E. S. WOOD: Same objection as before, that these letters are neither original nor original memoranda made at the time.

A. That is the same letter.

Q. Do you remember writing the original of that letter?

A. Yes.

Q. Now, in this letter, Mr. Carstens, I note you say this: "All the hog chains and hog posts are cut by hack saw away?"

A. Yes.

Q. What is the fact? Do you remember when you examined her that you noticed that the hog post and hog chains were cut away by hack haws?

A. I could see they were cut away. I suppose they were all laying in one mass, and they had to cut them up to get it cleaned up and cleared up, and get at it. Everything together that way, all going together there, any chains got on a turn buckle, to get a chain loosened up, the best thing they could do was to saw them off.

Q. In the same letter I note that you said "The condition of the hull, which is ten years old, I found to be such that it would need repairing within a year, to the extent of about \$6,000." Do you recall making a statement to that effect?

Mr. C. E. S. WOOD: Same objection.

A. Yes, I do.

Q. And that was your opinion at that time?

A. Yes.

Q. In the same letter, you say "most all her floor timbers at the center kelson are rotten." Do you remember making that statement?

Mr. C. E. S. WOOD: Same objection.

A. Yes, I remember she was soft there.

Q. That is your recollection of how it was at that

time?

A. Yes. As I said before, they were in condition they wouldn't last more than a couple of years more before they would have to be taken out.

Q. What steamers have you raised on the Columbia River, Captain, among others?

A. On the Columbia?

Q. Yes.

A. I raised the R. R. Thompson for one, and the Harvest Queen. That is all I think I raised in the Columbia River.

Q. Where was the R. R. Thompson sunk?

A. Well, I forget what they call that place, right below Rainier, Mt. Coffin, was it—yes.

Q. Mt. Coffin. How large was the R. R. Thompson?

A. How long?

Q. As compared with the Henderson—larger or smaller?

A. 215 feet.

Q. 215 feet?

A. Yes.

Q. And was she a larger boat, or a smaller boat than the Henderson?

A. Well, she were a bigger boat.

Q. Bigger boat?

A. Yes, sir.

Q. And how deep was the water where she was sunk?

A. Well, there were about six feet of water on her

deck at the stern, and her nose was sticking out of the water. She were beached, probably. So we—yes, five or six feet on the stern.

Q. And where was the Harvest Queen when you raised her?

A. She was quite a ways down the river, somewheres there. She were off some seining ground down there. I forget the name of that place. (To Captain Shaver) Do you remember?

Captain SHAVER: I don't remember. I think down about Bay View, if I remember right.

Q. Was she down below Cathlamet?

A. Yes.

Q. How deep was the water where she was sunk?

A. Well, the water aint very deep there. They got her up on the mud flat there, so her bow was just out of the water, and there were about two or three feet of water on her stern. She was in pretty good condition to raise. She was standing right flat on the mud flat.

Q. On a mud flat?

A. Yes.

Q. But she was in a place where the tides affected your work on it?

A. Yes, a little bit; about two or three feet of tide down there.

Q. Those are the only two boats you remember?

A. Raising on the Columbia River.

Q. Raising on the Columbia River?

A. Yes, sir.

Q. How large is the Harvest Queen?

A. She were 200 feet.

Q. Now, Captain, in raising these boats, did you find it necessary to have more than one tug boat?

A. No, I never had more than one, and I got along first rate, but I said there might be conditions where could do better work if there were two boats instead of one boat. Could have done it there if I had two boats; one on each side with a chain, and snaked the chain underneath the boat; but I got along fine with one boat.

Q. How much in your estimation, would it cost in July, 1911, to have built a new boat like the Henderson?

A. I think I made an estimate of that boat in my statement there, didn't I?

Q. I think so.

Mr. C. E. S. WOOD: I object to his using that as a means of refreshing his testimony in testifying.

A. About \$23,000.

Q. You estimated at that time it would cost about \$23,000?

A. Yes.

Q. Is that your judgement now, what it would have cost to build a new boat like the Henderson at that time?

A. At that time it could be done for that, yes. That were my figures at that time.

Q. That doesn't include the machinery; just the boat and upper works?

A. Yes, sir.

Q. Don't include the furniture?

A. Don't include anything else, no.

Q. It includes the cabin?

A. Includes the cabin, but I estimated on using the old hog chains at that time, and all the old iron work. I figured on using that again.

Cross Examination

Questions by Mr. ERSKINE WOOD:

Just so I may understand it myself, when you say \$23,000., was the cost of a new boat, you mean just the wood work?

A. I mean just the wood work.

Q. And you would figure on that estimate that you would use the hog chains and the cavels and all the iron work?

A. All the iron work taken out of the old boat, yes.

Q. So the iron work would all be extra to this?

A. Yes.

Q. Now, about these salvage operatings, raising the boat. It is very seldom that any two wrecks is exactly alike, isn't it?

A. Never two alike; never two alike.

Q. And each one has to be governed by its own peculiar circumstances?

A. Yes.

Q. So you can't say there is any regular rule as to how you ought to proceed to raise a boat?

A. You can't do that, no. I raised an old boat

up on the Yamhill River there; the old Elmore there. It cost \$16,000. to raise that boat. She lay—there was about a twelve mile current in the river. She lay on one side, and in a bad hole, and among a lot of stumps, and one thing and another, and it cost \$16,000 to raise that boat.

Q. That is what I wanted to get at. There is no regular rule.

A. No, you can't compare one thing with another.

Q. It is in evidence here that the Henderson was sunk in about 27 feet of water. She was over on her beam end; her engines didn't come out of her; they were still in her, so they made her heavy, and she was sunk at the head of Tenas Illihee Island in a June freshet. There was a current of about four miles an hour, and they had to wait for the tide so as to get slack water.

A. I see.

Q. And they only had about an hour of slack water at a time. I will show you these photographs, Libellant's Exhibits 13, 14, 12 and 7. These will give you a slight idea how they were working?

A. How deep water did you say?

Q. 27 feet at low tide.

A. Well, she were afloat.

Q. No, she was aground.

A. Well, it looks here as if one half the boat is out of the water there, laying over on the side.

Mr. C. E. S. WOOD: Have you explained to Mr. Carstens that she was on her side? She was on her

side, you know; that is the edge sticking up. She wasn't floating.

A. That is the guard sticking out but it shows her hull sticking out too.

Q. That is low tide on the picture.

Mr. C. E. S. WOOD: She was aground all the time.

A. Yes, if she lays out in the middle of the river, I suppose he had a pretty hard time around there.

Q. Well, under those circumstances that I have stated to you,—I know it is only rough—would you consider that \$8,000. was an excessive cost for raising the boat and bringing her up to Portland?

A. No, I wouldn't.

Q. If the boat had run about two years longer after 1911, supposing there had been no wreck, then you would have thought it would need about \$6,000. repairs on the hull?

A. Well, not the hull alone; the hull and cabin and the whole boat.

Q. General overhauling?

A. General overhauling.

Q. Well, that would increase her life a certain number of years. She would be good then to run again, wouldn't she?

A. She would be good then for another ten years.

Q. Without any more extensive repairs?

A. Yes.

Q. There has been some testimony here by Mr. Joe Paquet and Mr. Duncan that the hull now, as

she lies at the foot of Davis Street, has kelsons and timbers in her that are pretty rotten, and I want to ask you whether, if that hull has been lying there since the wreck, out in the sun there, and never been salted since the wreck, whether the rot wouldn't increase pretty fast in the last two years.

Mr. MINOR: That is objected to as not cross examination.

A. Well, of course they don't get better. They get worse all the time.

Q. Now, you estimate \$4,000. as being the cost of repairing the hull. Did you include chains in that, or were the Shavers to furnish the chains?

A. Yes; yes. Of course, I didn't figure putting in any but broken parts. I didn't figure anything—repairing anything that were rotten or lost, but just what were broke.

Q. But I don't understand whether you figured on a basis of the hog chains and iron work being furnished by the Shavers.

A. Yes.

Q. Or whether those items are included in the four thousand.

A. If all the chains had to be welded together, that would be about it, where they were sawed.

Mr. C. E. S. WOOD: He expected to use the old iron work.

A. They could be used again.

Q. That is what I mean. You expected to use the old iron.

A. Yes.

Q. I have here, Mr. Carstens, the surveyor's report that was made by Captain Crowe and Mr. Honeyman, and yourself—in which you joined. I will just show it to you, show you that it is the one that you concurred in, and I will ask you whether you think that is an approximately correct report.

A. He wanted me to make a joint report with them, and we got together there and estimated everything we could thing of.

Q. Well, that is the report that you signed?

A. That is the report I signed.

Q. This is your signature?

A. Yes, that is my signature.

Q. I notice you estimated the value of the Henderson at that time at \$38,304.

A. With machinery and—

Q. That is the value of the boat as she stood before the wreck?

A. With the whole—

Q. The value of a complete new boat at that time, you estimated at \$50,235?

A. All complete.

Q. And the depreciation \$11,931, leaving the value of the boat at ten years of age at \$38,304?

A. Yes.

Q. And the value of the salvage I notice you have placed here at \$16,835?

A. Yes, sir.

Q. Those figures you concurred in and agreed in?

A. Yes, sir.

Questions by Mr. C. E. S. WOOD:

Q. Mr. Carstens, at the time that you saw the wreck of the Henderson on the ways, if she had been your boat, or the company's boat in your charge, would you have repaired her, or would you have thrown the hull aside and rebuilt?

Mr. GUTHRIE: Objected to because it is not a question what he would have done, but what reasonably should have been done.

A. I would have built a new hull.

Q. And under the circumstances stated to you that she was down in the Columbia River in 27 feet of water, and over on her side, and in the June freshet, and all her boilers and machinery in her, would you undertake to say that men who have worked on her for 14 of 15 days before they could get her to Portland had bungled their job, or done a bad job? Would you say they didn't know what they were doing?

A. No, I wouldn't say that.

Q. Every job has its own troubles?

A. Every job has its own troubles, and pretty hard to estimate a thing like that.

Q. You were shown a report joined in by yourself and Captain Crowe and Mr. Honeyman, to refresh your memory on certain items. For whom was that report made?

A. For whom?

Mr. ERSKINE WOOD: The report that I just showed you.

Q. For whom was it made? Whom did you hand it in to?

A. Well, I think it were for the Standard Oil Company. That is my recollection. I didn't handle that, Captain Crowe handled that, and he asked me and Honeyman—he says "You better come in and look over that, and estimate and sign it." So I don't know exactly who they were working for. I know I spent a couple of days down there, and that is all I remember about it.

Q. And help make up these estimates you have testified to?

A. Yes, sir.

Mr. C. E. S. WOOD: Now, counsel for Standard Oil has produced a carbon copy of Mr. Carsten's letter of August 14, 1911, with certain office annotations on it, which are incompetent. I show this to you, and ask if this is your signature.

A. Yes, that is my signature.

Mr. C. E. S. WOOD: And we now withdraw our objection to the use of the copy that was used both by Mr. Guthrie and Mr. Minor, as far as the objection relates to its not being an original memorandum or letter.

Redirect Examination

Questions by Mr. MINOR:

Mr. Carstens, I want to ask you one question. When you say you would have built a new hull, was that because of the condition of the old hull as to being rotten or old, or because of the injuries done to her?

A. Well, I would build a new hull because I think that that would be the cheapest in the long run. The boat were pretty well strained, and as I said before, she would have had to be repaired anyhow in a couple of years. So it would be doing the right way to have built a new hull, right away.

Q. The fact that the boat was old and the condition it was in was not satisfactory, that had something to do with it.

A. That had something to do.

Q. With the fact you would have had a new hull—

Mr. C. E. S. WOOD: Object as leading.

Mr. MINOR: That is true, but I follow your example.

Mr. C. E. S. WOOD: If you follow my example on anything, it will be a bad one.

Mr. MINOR: No, I have a right to follow your example. I wish to offer in evidence this letter of August 14, 1911, and ask that the copy be used instead of the original.

Mr. C. E. S. WOOD: Objected to, as a report made by Mr. Carstens to one of the parties, and it is a self-serving declaration on their part; and also that it has some annotations on it that would take part in the record as evidence, annotations by Mr. Snow.

Mr. MINOR: The copy hasn't got those marks on.

Mr. C. E. S. WOOD: Object as incompetent.

Mr. MINOR: Not to the fact it is a copy.

Mr. C. E. S. WOOD: Not to the fact it is a copy.

The proper evidence is Mr. Carstens himself, and he has testified.

Marked "Claimant's Exhibit E."

"Portland, Oregon, August 14, 1911.

Standard Oil Company,
Portland, Oregon.

Dear sirs:

I have, by your request, today made a survey on the hull of the steamer "Henderson," now at the Portland Shipyard after the collision with the Tug Samson and barges. I found the damage done on the port side, abreast the boiler, was twenty-four frames broken, and sixteen streaks of planking, and the two clamp streaks also broken.

The guard, which projects two feet outside the hull, is carried away from the break to the stern, and the deck got badly strained on that account. All the hog chains and hog posts are cut by hack saw away, so the hull is badly strained by letting the stern drop down. All the upper work, as freight house, cabin, texas and pilot house, are entirely gone, evidently in the process of raising the boat. The machinery is damaged to some extent by pipes and connections broken, besides damage by water and mud.

The repairing needed would be done as follows:

First, the whole deck would have to be removed so as to put in new deck beam. Then twenty-four frames would have to be repaired, and about sixteen streaks of the outside planking. About one hundred feet to the streak renewed. The kelsons to be re-

fastened. The cylinder timber on the port side is bruised up to some extent—enough to make claims for having them re-newed.

The estimate to repair the steamer, and make her as good as she was before the collision, would be as follows:

Repairing hull	\$4162.00
Re-building the upper works	8812.00
Machinery	2000.00
<hr/>	
Total	\$14,974.00
Estimate cost of a new boat.....	\$23,000.00
Removing and re-placing machinery	3,500.00
<hr/>	
Total	\$26,500.00

The condition of the hull, which is ten years old, I found to be such that it would need repairing within a year to the extent of about \$6,000.00. Most all her floor timbers at the center kelson are rotten. To renew them, it would be necessary to take off the bottom planking. The sills under the freight-house are also rotten, and the ten years' service shows all over the hull.

Yours respectfully,
 741 Broadway St. P. Carstens
 Master Shipbuilder.

Witness excused.

Mr. C. E. S. WOOD: I want to have marked for identification the joint report which Mr. Carstens made with Mr. Honeyman and Captain Crowe.

Marked Libellant's Exhibit 32 for identification.
Whereupon proceedings herein were adjourned until Monday, June 9, 1913, 9 a. m.

Portland, Ore., June 9, 1913, 9 a. m.

DANIEL KERN, a witness called on behalf of the Claimant, being first duly sworn, testified as follows.

Direct Examination

Questions by Mr. MINOR:

Mr. Kern, you are the president of the Columbia Contract Company?

A. Yes, sir.

Q. Have you ever had any experience in raising boats sunk in the Columbia River?

A. Yes, sir.

Q. What boats have you raised or conducted the raising of?

A. I raised the French barque Henrietta, near Astoria, and I raised the steam schooner Kelton, and I raised the steamer Daniel Kern, and I have raised one steel barge about a thousand tons capacity.

Q. What was the name of that?

A. Well, there wasn't a name of that. It was numbered. I forget the number of that. I think it was No. 2; I couldn't say, though. Then I have raised a derrick scow, sunk down near Astoria.

Q. Did that have a name?

A. No.

Q. Any others?

A. Oh, we have raised scows, and turned scows

over that have been sunk, but I didn't supervise those myself.

Q. Mr. Kern, in raising such a boat as the Henderson—you are familiar with the Henderson, are you?

A. Yes, sir; have seen her.

Q. Know about the size of her?

A. Yes.

'Q. In raising such a boat as the Henderson, supposing that she was sunk at a point where the testimony shows she was sunk, between Tenas Illihee Island and Puget Island, in about 27 feet of water, in July, 1911, what apparatus would it be necessary for you to have?

A. It would be necessary to have barges on the side of her, and chains or cables and timbers across; scows to lift her with.

Q. What about tow boats?

A. Well, I never had any more than one tow boat, and part of the time none, when I was raising boats.

Q. Well, in your judgement, is it necessary to have more than one tow boat?

A. No, sir.

Q. To raise a boat of that character?

A. No, sir.

Q. The testimony in this case shows, I believe, that they had two tow boats at all times, and more some times. You think one is enough?

A. One would be sufficient.

Q. Now, in what manner should the work be done, in your judgement?

A. Well, would be the first thing to get the barges alongside, and put the chains under, and get the timbers in place, and, if the boat was listed to one side, as some of our boats were, why, straighten them up with the chains.

Q. The testimony in this case shows that they used the steamer Cascades, the steamer Wauna, and the launch, a gasoline boat, Echo. Now, are you familiar with the Cascades?

A. Yes, sir.

Q. And do you know the Wauna?

A. I have never been aboard of her, but I have seen her on the river. I don't know anything about her—a small boat.

Q. What, in your judgement, is the reasonable rental value of a steamer as the Cascades, a day?

Mr. ERSKINE WOOD: Does he know?

Q. You have hired boats?

A. I have hired boats and rented boats.

Mr. MINOR: He has done that for years.

Mr. ERSKINE WOOD: I knew he had, but I didn't think it appeared in the record.

Q. What, in your judgement, is the rental value of such a steamer as the Cascades, per day?

A. Well, \$130. would be good rental for her.

Q. And how much per day would a steamer like the Wauna be worth?

A. I should say \$100. a day would be a fair price

for her.

Q. Do you know the Echo?

A. No; I have seen her, but I don't know anything about her.

Q. How large a boat? (to Captain Shaver).

Captain SHAVER: About 60 feet long, 125 horsepower.

Q. She is, I understand, a gasoline launch, 60 feet long, of 125 horsepower. Do you know anything about the rental value of boats of that character?

A. Depends on the crew she carries.

Q. She carries three.

A. I should think \$25. a day, on such work as that. She wouldn't be using a great deal of gasoline.

Q. Is it necessary, in your judgement, to have a boat of that kind in raising such a boat as the Henderson, in the place where she was wrecked?

A. We never employ any boat except one boat, in any of our work.

Q. You spoke about raising the steamer Daniel Kern. Where was she sunk?

A. She was sunk about Waterford, on the Columbia River, in 68 feet of water.

Q. 68 feet of water?

A. Yes.

Q. How large is the Daniel Kern?

A. Well, she is not as large beam or length as the Henderson, but a good deal heavier boat, and displaces more water. I suppose she displaced double--

Q. She was sunk, you say, in 68 feet of water?

A. Yes. Would displace three times as much, two and a half times as much as the Henderson would.

Q. How large were those other boats you raised?

A. Well the French barque was considerably heavier, but we used a different method in raising her. We raised her with pumps.

Q. With pumps?

A. Yes.

Q. What other boats—you spoke of raising some barges. How large were they?

A. Well, the Ladd, we raised the barge Ladd; she is I suppose a heavier boat than the Henderson, and she was loaded with stone.

Mr. ERSKINE WOOD: What barge is this?

Mr. MINOR: The Ladd, W. S. Ladd.

A. She was sunk near Astoria.

Q. How deep was the water she was sunk in?

A. Oh, wasn't only about fifteen feet, but the sand washed away from her, and let her down for twenty feet in the sand. She turned over on the side, on an angle of about, if I remember right, an angle of about 42 degrees, and we had to straighten her up; took some of the stone out, though we couldn't get it all out, and we had to straighten her out, and done it with chains and barges alongside, and rolled her up.

Q. There is some testimony here, Mr. Kern, to the effect that where the Henderson was, it is not practical to work on the wreck except during low tide.

Mr. ERSKINE WOOD: High tide.

Q. Except during high tide. What, in your experience—from your experience, is the fact as to that?

A. Well, of course there would be considerable current when the tide was ebbing, and they would probably have to lose a few hours each day. That was our experience when raising two of our boats—the Kern and this Ladd. We had to quit when the tide was strongest running out.

Q. And how much time a day would you lose on that account?

A. Oh, we would lose, probably, a couple of hours on each tide.

Q. What is the rental value of the barges such as were used in raising the Henderson?

A. The value of those barges?

Q. Rental value, per day?

A. Well, I suppose about ten or twelve dollars a day.

Q. How do those barges compare in size with the barges which you had?

A. They are smaller.

Q. Smaller?

A. Yes.

Q. Now, Mr. Kern, have you seen the statement which the libellant has filed here, regarding the expense of raising the Henderson?

A. Yes, sir.

Q. Have you checked over that statement?

A. Yes, sir.

Q. What, in your judgement, would be a very reasonable sum for the expense of raising the Henderson?

A. \$5,000.

Q. Have you had any boats hauled out of the river, from time to time?

A. Yes, sir.

Q. What kind of boats?

A. All kinds of boats, scows, river steamers; our large tugs, though, we take them out on the dry dock. We can't get them hauled out. We have to have them lifted.

Q. Large tugs, you mean like—

A. The Samson and the Kern.

Q. Such as the Hercules, for example?

A. Have them hauled out on the ways.

Q. Your barges, what about those?

A. Have those hauled out.

Q. Do you know what is the ordinary charge for hauling out boats of that character, on the ways here?

A. Well, we pay about \$100. to get the Hercules hauled out, and had a barge hauled out about a month ago, about as big a boat as the Henderson, displaced about as much water as the Henderson, and she had four feet of water in her when they hauled her out: was probably drawing then about six feet of water. Got her hauled out for \$75.

Q. Do you know what the reasonable value of boats such as the Henderson was in this port, say,

between Astoria and Portland, in July, 1911?

Mr. ERSKINE WOOD: Just a moment. He has never shown that he knows—

Mr. MINOR: I asked if he knows.

Mr. ERSKINE WOOD: He hasn't shown if he knows what kind of a boat the Henderson was, been over her, and examined her.

Q. He said he was familiar with her.

A. She is a boat about like our Hercules. What do you mean—in dollars and cents?

Q. Yes, in dollars and cents, a new boat of that character.

A. Well, I never built any new boats of that character, but comparing with ours, I should think she would be worth about \$25,000. We are carrying our boat on our books at \$22,500.

Mr. ERSKINE WOOD: Which boat is that?

A. The Hercules.

Q. Mr. Kern, did your boat sustain any damages by reason of this collision?

A. Yes, sir.

Q. With the Henderson and—

A. The barges did.

Q. I wish you would testify regarding what damages were sustained. You can just describe the damages first. Describe the damages sustained.

A. The damages were principally to the barges.

Q. What barges were hurt, and how?

A. The barges—I think this was barge No. 9; and the loss of time of the boats and barges.

Q. How many barges were damaged?

A. Two.

Q. Two barges damaged. Did you have—

A. One we had repaired at the Portland Shipbuilding Company, at a cost of \$163.62. and the other one we repaired ourselves, at a cost to us of \$25., making a total of \$188.62 damage to the barges.

Q. Now, Mr. Kern, did you pay the bills of the Portland Shipbuilding Company for that yourself?

A. Yes, sir.

Q. Did you go over the bill before you paid it, to ascertain whether it was a reasonable charge, or not?

A. Yes, sir; reasonable charge.

Q. How much did you say was a reasonable charge for that?

A. \$163.62.

Q. And the other barge you repaired yourself, I understand?

A. Yes, sir.

Q. And do you know about the expense of those repairs?

A. I don't know that—that account was kept at our stone quarry. I say I don't know anything about the cost of it, only what they reported.

Q. Did you pay it?

A. It was paid in our usual way there.

Q. Now, what damages did you sustain besides the repairs of your barges?

A. Loss of time with the tug Samson, and the fuel, and the crew, besides the rent of the Samson

for one day.

Mr. ERSKINE WOOD: I don't understand that; how he charges for loss of time of the Samson, and rent of the Samson.

A. I say rent, one day. They charged rent for the Samson one day, and fuel she consumed, and fuel for one day, total \$133.50.

Q. Now, Mr. Kern, why was the Samson—why did you charge for loss of time of the Samson for one day?

A. Because she was delayed one day down there, on account of this wreck; we failed to get our deliveries of rock to the jetty.

Q. What business was the Samson engaged in at that time?

A. Engaged in towing rocks to the jetty at the mouth of the Columbia River.

Q. What was the value of the Samson during that day including the cost of operating? How much?

A. \$133.50.

Q. \$133.50. What other damages, if any, did you sustain?

A. Steamer Hercules, one day rent, and one day crew, and one day's fuel oil \$111.

Mr. ERSKINE WOOD: How much?

A. \$111.

Q. Now, explain how it is that you claim the Hercules lost a day?

A. She lost a day on account of the wreck, being delayed. The Samson had failed to get her barges

down, and we didn't have anything for her to do that day, for to bring empty barges up.

Q. What business is she engaged in?

A. Towing rocks to the Columbia River jetty.

Q. What is the connection between the work of the Samson and the work of the Hercules?

A. The Hercules takes the rock from the quarry, and turns them over to the Samson, down the river about 70 miles, and takes the empties, and returns them to the quarries.

Q. What is the character of the work they are doing, and for what purpose being done?

A. Building the jetty at the mouth of the Columbia River, for the Government.

Q. Under contract with the Government?

A. Contract with the Government.

Q. Now, what other damage did you sustain by reason of this?

A. Rent of barges, six barges at \$15 a day, \$90. Those are 1100 ton barges; and three barges at \$12. per day, \$36.00, \$126., and loss of the use of the barges for a day.

Q. Explain how that happened?

A. That happened on account of this wreck, that the boats failed to make connections.

Q. What is the size of those barges? I see you charge different prices.

A. Well, there is a thousand tons, or nine hundred tons, and the other is eleven hundred tons.

Q. What is the reasonable rental value per day,

of these barges, in your judgement?

A. \$15. and \$12.

Q. \$15. for the large ones, and \$12. for the smaller ones?

A. \$12. for the smaller ones. Then there is three days while that barge was being repaired at the Portland Shipyard, \$45.

Q. Which barge is that?

A. No. 9. That is the one that was damaged the most.

Q. Were those three days additional?

A. Yes, sir.

Q. Mr. Kern, I note that Mr. Shaver, in giving his estimate of the value of the articles lost entirely, puts in the furniture of the Henderson at the same price that he paid for new furniture. Now, do you know anything about the value of such furniture and fittings as are put upon a steamboat?

A. I wouldn't want to say as to what was on the Henderson, but the value of the furniture on our own boats wouldn't amount to over, not to exceed \$400., any of them.

Q. How does the value of furniture which was several years old, compare with the value of new furniture?

A. Well, I shouldn't think it would be worth over fifty per cent of new furniture.

Q. What is your experience in regard to the value of second hand furniture as compared with new furniture?

A. I couldn't say I have ever had any experience in that line, but they generally buy those things for about half what new stuff would cost.

Q. You know that to be a fact?

A. Yes; we have bought some second hand goods.

Q. Is there anything else?

A. The Samson was a big, expensive boat, compared to the Henderson.

Q. How does the Samson compare with the Henderson?

A. She is a great deal more powerful boat, and more expensive boat.

Q. And how about the cost of operating?

A. Expenses more.

Q. The expense of operating is more. How about the Hercules?

A. She is—she shouldn't—the expense of operating the Hercules ought to be about the same as the Henderson.

Q. And how about the comparative size and value of the two boats?

A. The boats are about the same. The engines are about the same, and the size of the hull; I think only about two feet difference in the length of the hulls.

Q. Is that all I wanted to ask you about?

A. All I think about now.

Mr. MINOR: There may be something else, but I think that is all just now. I can't tell until the other witness comes, whether anything else or not.

Cross Examination

Questions by Mr. ERSKINE WOOD:

Mr. Kern, the Henrietta you raised at Astoria, that is right, isn't it?

A. Yes, sir.

Q. And the Kelton where?

A. Astoria.

Q. And the Daniel Kern was at Waterford. That is above or below Puget Island?

A. That is below—that is just a few miles above Puget Island, upper end of the island—little above.

Q. A little above where this collision occurred?

A. Five or six miles.

Q. And the steel barge, where was that?

A. That was near Astoria.

Q. The derrick scow?

A. Same place.

Q. And the W. S. Ladd, you said, I think it was, at Astoria?

A. That was at Astoria.

Q. Did you raise any of those boats during the June freshet?

A. Yes.

Q. Which one?

A. The Ladd.

Q. What time of year was it?

A. June, 1911.

Mr. MINOR: June, 1911.

Q. It is a fact, isn't it, that the June freshet is not felt at Astoria—

A. That is where it is felt.

Q. (Continuing): The way it is further up the river, is it?

A. I say, I guess it is felt more at Astoria at that time of the year, than any other time of the year. That is when the water is highest, during the month of June.

Q. I know, but the high tides at Astoria, being right at the mouth of the river, don't they give you slack water for a considerably longer period than you get further up the river?

A. No, the current sets down nearly all the time in Astoria, during the month of June.

Mr. C. E. S. WOOD: How wide is the river there at Astoria?

Q. Yes, how wide is it?

A. How wide is the river at Astoria?

Q. Yes.

A. I don't know; probably four or five miles.

Q. It is obvious, then, that further up the river, where it is confined to a width of half a mile, it would be more swift?

A. No. The current runs considerably stronger at the mouth of the river than at any other point.

Q. Might possibly at the jetty, but not at Astoria?

A. At Astoria. The further you go up the river, the less current.

Q. How much slack water do you get at Astoria?

A. What is that?

Q. How much slack water do you get at Astoria

in the June freshet, at high tide?

A. We don't get but very little; get slack water, the current generally sets down in June.

Q. Do you mean to say that you get as much slack water in the June freshet at Puget Island, as you would down at Astoria?

A. You get more at Puget Island. You get more slack water at Puget Island. The further you get up the river, the more slack water there is.

Q. Now, you estimate the reasonable value of raising the Henderson at \$5,000.

A. Yes, sir.

Q. Do you know what condition the Henderson was in? Did you go to see her?

A. No, I saw photographs of her, and had been told. She was in no worse condition than this boat was.

Q. Which boat is that?

A. The Ladd, with the stone and buried in sand.

Q. What condition do you understand the Henderson was in?

A. She was lying upon her side, at an angle of probably a little more than that boat.

Q. In how much water? I want to see if you know all the conditions.

A. I don't know about the water, only what I heard them say here—about 28 feet.

Q. And how far was she turned over, do you think?

A. I don't know that, except from the photographs

and the testimony.

Q. I know you don't know it from actual observation, but I want to know what you have in mind, when you base an estimate of \$5,000.

A. I base that mostly on Mr. Shaver's own statement on taking these extra boats he has got in there —allowing him \$2500. for the use of his boats, but deducting the balance which shouldn't be charged in there. I don't know whv we should pay for boats lying by down there. The Captain's report shows that the boats laid by, and he charged us for that time.

Q. Do you think, then, if the Henderson was lying in 27 feet of water, if they could only work during slack water—

A. They could work at all times after they got their chains under; wouldn't have to wait for slack water, because a man can raise those jacks any time —can jack those any time, no matter how the tide was.

Q. The difficulty was in getting the chains under.

A. That no very great difficulty; wasn't very long getting them under, according to their own testimony here.

Q. Just let me put a question, assuming that Captain Shaver is right: If the boat was laying in 27 feet of water, the current strong in the June freshet, they could only work during slack water, caused by high tide, the boat in 27 feet of water, turned over, with her engines and boilers in her, then do you think

that \$5,000.—

A. Yes, sir.

Q. Assuming all those facts to be true, was reasonable?

A. Yes, sir; reasonable value. We had our boat sunk, the Kern, in 68 feet of water, pulled over on the side, but we didn't straighten her up with steam-boats.

Q. What time of year?

A. Month of August.

Q. Quite different—

A. No, about the same time he worked with his boat, and about pretty near the same location.

Q. Same condition of water?

A. Same condition, and our boat was crossways of the river, right straight crossways of the channel.

Q. Were you working in strong current?

A. A great deal stronger than there.

Q. As strong as 1911?

A. It was 1909; yes, just as strong.

Q. Same kind of a freshet?

A. The freshet in 1909, if I remember right, raised about 15 or 16 feet; in 1911, it raised about the same.

Q. You knew the Henderson was crossways too?

A. I don't understand she was crossways of the current.

Q. If she was crossways of the current, you would think your estimate—

A. Wouldn't make any difference in my estimate.

Q. Then why do you make a point of saying the

Daniel Kern was crossways of the current, and would make it harder work?

A. Here is a boat loaded with stone—

Q. I don't care about that.

A. I want to tell you how I formed my opinion. That boat cost \$2300. to raise. We unloaded her—

Mr. ERSKINE WOOD: I move to strike that all out, and ask to have the question read.

(Question read).

A. It wouldn't make any difference. The Henderson wasn't crossways of the current, as I understand it.

Mr. ERSKINE WOOD: I move to strike that out too, and make a note that the witness refuses to answer the question.

Q. What is the question?

(Question read as follows: "Q. You knew the Henderson was crossways too. A. I don't understand she was crossways of the current. Q. If she was crossways of the current, you would think your estimate—A . Wouldn't make any difference in my estimate. Q. Then, why do you make a point of saying the Daniel Kern was crossways of the current, and would make it harder work?")

A. Harder work, because she was in 68 feet of water, and we had nothing to hang onto. 68 feet of water, and there wasn't a bit of the boat in sight. The cabin was at least 30 feet below the surface?

Q. Was she turned over?

A. She was turned on her side.

Q. She wasn't turned over, bottom up, was she?

A. The Henderson wasn't turned over bottom up?

Q. And you estimate the rental value of the barges to be ten or twelve dollars a day? Do you mean with a man or without?

Mr. MINOR: He didn't say that.

Mr. ERSKINE WOOD: What did he say?

Mr. MINOR: He put them at ten dollars, to fifteen dollars.

A. With a man. That is all we ever received for barges when we rent them.

Witness Excused.

C. W. BALE, witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination

Questions by Mr. MINOR:

Mr. Bale, what is your business?

A. Chief Engineer of the Willamette Iron and Steel Works.

Q. How long have you been engaged in that business?

A. About ten years.

Q. And what places have you been engaged as engineer, of iron and steel works?

A. In Detroit, eight years; with the Detroit Shipbuilding Company, four years, and with the Great Lakes Engineering Works four years.

Q. How long here in the city?

A. I have been nearly five years in this city.

Q. Are you familiar with the building of engines

and boilers?

A. Yes, sir.

Q. Such engines and boilers as would be used by stern wheel steamboats in this vicinity?

A. Yes, sir.

Q. Have you ever had such engines and boilers built?

A. Yes, sir.

Q. Now, Mr. Bale, what is a reasonable value of a new engine, set of engines complete, 18 x 84?

A. Well, I recently made a price of \$8200.

Mr. C. E. S. WOOD: I object to that as immaterial.

Mr. MINOR: It is the size of your engines.

Mr. C. E. S. WOOD: He says, "I made a price" He might have made a gift. You asked the value.

Q. What is the reasonable value, Mr. Bale?

A. To include what?

Q. Complete; engines complete.

A. The engines complete would be about \$8200.

Q. And what does that include?

A. That includes the engines complete, without any piping, including the shaft wheels, pillow blocks, and wheel irons; cranks, pitmans.

Q. Now, have you ever had boilers, such as are used on stern wheel steamboats in this vicinity, built?

A. Yes, sir.

Q. And you are familiar with the cost and value of such boilers?

A. Yes, sir.

Q. What, in your judgement, is the reasonable value of a boiler complete, suitable for a 225 water pressure—working pressure?

A. Working pressure, steam pressure, working pressure.

Q. What, in your judgement, is the reasonable value of a 72 inch boiler, suitable for a 225 pounds working power pressure—it that what you call it?

A. Pounds working pressure, yes, sir.

Q. In this market.

A. That is fire box type, I understand?

Q. Yes, fire box type.

A. About \$5500.

Q. Now?

A. Now, yes, sir.

Q. What was the value of such a boiler in July, 1911?

A. Well, it wouldn't be quite as much. I couldn't say what the difference would be, but would be a trifle more now, on account of the higher price of steel.

Q. What would be the price at that time, of such an engine as you have described?

A. Well, about the same ratio. They would be a little cheaper at that time than they are now.

Q. What would be the value, Mr. Bale, of such an engine as you have described, leaving out the wheel, complete with crank, pillow block and pitmans?

A. Well, from the price I made, I think you would deduct about \$3500.

Q. That would leave about \$4700?

A. \$4700.

Q. Mr. Bale, does such machinery as the boiler which you have described, and the engines which you have described, depreciate in value from use, rapidly or otherwise?

A. Well, that class of engines does not depreciate as rapidly as engines that are higher speed, but of course they depreciate. I couldn't tell what the depreciation would be. I have no experience in that line, on the depreciation.

Q. And what about boilers of that character. Do they depreciate in value?

A. Oh, they depreciate in value, but I couldn't give any figures what the depreciation would be.

Q. Couldn't estimate the amount of depreciation?

A. No, sir.

Q. The prices which you give, I understand, do not include piping or valves?

A. No, sir.

Q. And the prices which you give are at what place?

A. Sir?

Q. What market, the prices you gave? What market?

A. The present market.

Q. That is the City of Portland?

A. Portland, yes, sir.

Cross Examination

Questions by Mr. C. E. S. WOOD:

What material did you figure in your estimate of engines?

A. What material, in what way?

Q. Quality of material.

A. I figured first-class quality all the way through, the same as—

Q. Could be made cheaper by using cheaper material?

A. Oh, yes, I suppose could be made cheaper, if you use a poor grade of material, but you can't build an engine that would stand that pressure, and use very poor material.

Q. Well, could it be made more costly to any advantage? Could you better it any by a higher price? Suppose you were told, regardless of price, you wanted the best engine possible turned out, would you do it for that figure, or would it cost more?

A. Well, we would have to charge more, if we were going to make the engine, and polish it all over; all the working parts be polished, like some Governments require. But this is figuring an ordinary engine, like is used on the river here. For instances, the Teal, the Open River boat; just the ordinary working engines, like are on the river now.

Q. What would be the value of a 64 inch boiler?

A. Well, I have no figures on any other size, because I haven't been over it very recently.

Q. You haven't figured on any?

A. Not very recently, no.

Q. When did you figure on these sizes?

A. I figured on this about last week, some time, I think it was, or the week before.

Q. And you think that two or three years ago it would be cheaper?

A. I think they would, slightly; wages are a little higher now, and material is a little higher at the present time.

Q. Have you any idea of the percentage?

A. No, I have not.

Q. Well, have you built many of those boilers?

A. Oh yes, we build—

Q. This size?

A. I haven't built very many of this size; no, I don't remember of only one since I have been there, but have built boilers we can get a very good estimate from; slightly smaller, so we can estimate the work from them; a certain proportion of the amount of work, and amount of material. We can always tell the amount of material by figuring it up.

Q. Have you any special facilities for making cheaper jobs?

A. Why, I think that we have machinery that we can make a boiler cheaper than any one else can in this town, on account of having improved machinery there.

Q. If a man today paid \$5500. for a 64 inch boiler, you would think he was paying more than was necessary?

A. Yes, I think it would be rather high.

Q. And you think the same of a 72 inch boiler; I take it for granted from what you have said here, that you would think \$6500. was high?

A. \$5500?

Q. \$6500. for 72 inch.

A. I would think that was too high?

Q. Yes.

A. Yes, sir.

Q. You think the figures which you have given would cover the cost of a first-class boiler?

A. Yes, sir.

Q. None better?

A. Yes, sir.

Q. Now, you have testified that you really couldn't give the percentage of depreciation, but still I will ask you, in a general way, whether that would depend on the use of the boat herself, and also in the care which was given to the machinery by the engineer. Wouldn't it?

A. Yes, sir.

Witness excused.

J. H. LaMoree a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination

Questions by Mr. MINOR:

Mr. LaMoree, where do you reside, and what is your business?

A. 494 East Eleventh Street North. Am president and manager of the Loggers and Contractors' Ma-

achinery Company.

Q. What is the character of the business that your concern is engaged in?

A. Well, we are brokers, and manufacturer's agents, buying and selling second-hand machinery.

J. Did you get a list of the pumping machinery from Mr. Puariea?

A. Yes, sir.

Q. For what purpose was this given to you, Mr. LaMoree?

A. To get prices on it.

Q. Now, have you been able to get prices on that machinery?

A. No.

Q. Why?

A. I can't find except one make that is at all familiar that I know of in that list.

Q. What is it?

A. That is a Knowles, and not the correct size, the size that is listed in their catalogue.

Q. You can't find that Knowles make a size like the one you have on this list?

A. No.

Q. Now, Mr. LaMoree, can you tell me what is the reasonable value of pumps, recognized as first-class pumps, of the sizes on the list which was furnished you by Mr. Puariea?

Mr. C. E. S. WOOD: Objected to as incompetent.

Mr. MINOR: We can't get anything on your pumps. We can't find any such pumps.

A. Well, the first pump which they have listed here is a Yow boiler pump, 10 x 6 x 12. We could furnish that in Knowles or Blake for \$367.

Q. Take the next one.

A. Woodard Sanitary Pump, 10 x 5 x 6, we could furnish that in Knowles or Blake for \$271.

Q. They call for an extra pump for either boiler or sanitary Knowles, 7 $\frac{1}{4}$ x 4 5-16 x 10.

A. We don't find any size of that kind, but we could furnish a 7 $\frac{1}{2}$ x 4 $\frac{1}{2}$ x 10, \$163.

Q. Are those the only three?

A. And then there is a Moore hand pump, 4 x 8 $\frac{1}{2}$. I presume that is a boiler test pump, of which we could furnish a Mill Street Iron Works, San Francisco, for \$64; pumps for testing boilers, and pass the United States Inspectors.

Q. Are those names you gave—are the manufacturers of those pumps standard?

A. Yes, sir.

Q. (Continuing) Standard quality pumps?

A. Standard quality pumps.

Cross Examination

Questions by Mr. C. E. S. WOOD:

Mr. LaMoree, you deal exclusively in machinery?

A. Yes, sir.

Q. And loggers and contractor's machinery, you say? What particular kind of machinery for contractors.

A. Well, we handle concrete machinery, pumps and boilers for contractors; then whatever a contractor may want, we buy for them.

Q. You mean for these donkey engines that work around down here?

A. Yes, sir.

Q. In excavating?

A. Yes, sir.

Q. For what manufacturers are you agents?

A. Why, we are agents for the Willamette Iron & Steel Works, Portland; Russel Wheel & Foundry Company, Detroit, Michigan; Chain Belt Company, Milwaukie; American Engine Company, Bound-brooke, New Jersey; George H. Williams Company, Cleveland, Ohio; and the Frost Manufacturing Company of Galesburg, Illinois. I think that is the people whom we chiefly represent. We do a general contracting business combined.

Q. You spoke about two styles of pumps, Blake and Knowles.

A. Blake or Knowles.

Q. Where are the Blake Pump people?

A. I don't know. Both built at the same factory.

Q. Well, don't you know where the factory is located?

A. No, I don't know where the factory is located.

Witness Excused.

S. H. Shaver a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination

Questions by Mr. MINOR:

Mr. Shaver, what is your business, and where do you reside?

A. Run a machine shop; building machinery, different kinds and descriptions.

Q. At what place?

A. Willamette and Columbia River Towing Company.

Q. And at what place do you say it is?

A. Willamette & Columbia River Towing Company.

Q. Portland?

A. Yes, sir; 181 East Water.

Q. How long have you been engaged in that business?

A. Four years in this place.

Q. And where were you engaged in that business before?

A. Well, different places; some with the Hicks Iron Works, and a good deal of the time on steam work, and steamboats, steamboating.

Q. You are licensed engineer?

A. Yes, sir.

Q. Do you know anything about what kind of a log towing equipment the steamer Henderson had before she was sunk?

A. Yes, something of it; just in a general way.

Q. What do you know about it in a general way,

that you speak of?

A. Well, I know that she was equipped about the same class and same way as our boats. We have four tow boats, and it was about the same class of equipment with ours.

Q. What boats have you?

A. We have the Game Cock, the F. B. Jones, the Vulcan, and a little boat, The Cruiser.

Q. What kind of business are those boats engaged in?

A. Log towing.

Q. How does those boats compare in size with the Henderson?

A. Well, the Gamecock is just about the same size boat as the Henderson, I guess, something similar. May not—a little difference, I guess, something similar to it, about the same size.

Q. And the other boats?

A. The other boats are smaller than the Henderson.

Q. Have you seen the statement which I now show you?

A. Yes, sir.

Q. Who gave it to you?

A. Captain Puariea.

Q. This is an itemized statement furnished to the Columbia Contract Company by the Shaver Transportation Company. Will you look over the details of this, as far as the log towing equipment of the steamer Henderson is concerned?

A. Yes, sir.

Q. Now, take his detailed statement of the log towing equipment of the Henderson; are your boats equipped in the same manner?

A. Just about the same.

Q. Do you know what is the value of log towing equipment such as described in the statement to which I refer you?

A. I couldn't give you all of it. There is some of it I do, and some parts of it I couldn't give you an off-hand figure on.

Q. What is the value of such engines as are used for towing on boats of that character?

A. You mean the main engines of the boat?

Q. The towing engine.

A. Oh, the towing engine.

Q. Yes.

A. The towing engines such as we used is about \$550.

Q. What kind of an engine do you use?

A. It is a single drum, twin cylinder engine.

Q. About what size?

A. Six by eight.

Q. Is that new?

A. Those are brand new, yes, sir.

Q. Do you use steam steering gear on your boats?

A. Yes, sir.

Q. What is the value in this market of such steam steering gear as is used on boats of that character?

A. That depends on the size of it. A gear as is marked in these specifications there is about \$310.

Q. I call your attention to the last part of the itemized statement, furnished by the Shaver Transportation Company to the Columbia Contract Company, entitled "Part of Log Towing Equipment of Steamer M. F. Henderson," and ask if you have been over that?

A. Yes, I have looked it over, but that is something that I couldn't—I couldn't give you a price on that, as we buy it—the way it comes now, we buy all the stock of rope and cable, the price is by the pound, and I have no way of arriving at the number of feet, or the cost in that way. So I didn't get that part of it at all. What I did get is the towing line and the figures here are about the same as our figures on the towing line.

Q. Towing line?

A. Yes, sir.

Q. That is the only thing you have on that point?

A. That is the only thing on this list, I think. No, I have the lanterns. I have a list. There you have the lanterns, the different kind of lanterns that they use on tow boats; and axes and peavies.

Q. Well, now, take those items, Mr. Shaver. What is this?

A. That is 1250 feet two and a half inch circumference, tow lines, one half value, \$65.94.

Q. Take the tow line, for example, that is mentioned on that list. What is the reasonable value,

in your judgement, of that?

A. That was furnished to us at \$63.50. That is, at one half the value.

Q. One half the value would be \$63.50.

A. Yes, one half the value would be \$63.50.

Mr. WOOD: That statement of particular cases, Minor, isn't really the best evidence of market value. He says furnished to him.

Mr. MINOR: He is giving what he is paying for it, I suppose, in the market.

A. That is taken from our bills.

Q. What you are paying for it in the market?

A. Yes, sir.

Q. Take lanterns. What is the market value of lanterns such as described in that list?

A. That—the two lanterns is \$9.60 for ten, and our other lanterns, the raft lanterns was \$17.25 for eighteen. That is reduced down the same as these are,—the raft lanterns eighteen, \$20, ten tubular lanterns, \$9.00; that is, raft lanterns, \$17.25, and tubular, \$9.60.

Q. Mr. Shaver, do you know the reasonable value in this market, of hog chains, such as used on boats of that character?

A. Yes, sir; I have the price on the material, on the steel or Norway iron. It is different prices, according to the material used.

Q. What is the price on that by the pound, or by the chain?

A. By the pound.

Q. What is the price of Norway iron by the pound?

A. About five cents at the present time.

Q. What was it in 1911, July, 1911?

A. That I will have to refer back to the bills; I couldn't tell.

Q. I mean, was it higher or lower?

A. I think a little lower. All iron at the present time is pretty high.

Q. What was the price at that time of steel chains?

A. Steel probably was lower than than it is now, probably a little; three cents at the present time.

Q. At that time you think it was a little lower?

A. Yes, I think so.

Q. Now, these chains, the main chains seem to have been one and three-quarter inch in size. Does that give you any idea whether it was steel or iron?

A. No, sir, that doesn't tell me anything, whether steel or iron; might be Mild steel or might be Norway.

Q. What was it made of, what kind of steel?

A. Norway steel, or Mild steel is what they generally use.

Q. What would chains of that size weigh per foot, if it was Norway iron?

A. Weight 8.178 pounds per foot.

Q. And if it were steel, what would they weigh per foot?

A. Same thing; the weight is the same.

Q. Now, what would be the weight of chains, $1\frac{1}{2}$ inches, if it were Norway iron?

A. It would be 6.008 per foot.

Q. If Norway iron, the same as steel?

A. Yes.

Q. You can't tell from the size of the chain, whether Norway iron or steel?

A. No, sir; both got the same sizes.

Q. Do you know what is the reasonable value in this market of cavels such as used on towing steamers?

A. Not unless I know the weight of them, I can't, because so many different sizes.

Q. How much are they per pound?

A. Runs about three and a half cents for rough casting.

Q. And do you know the value of cleats such as used on towing steamers?

A. What?

Q. Cleats?

A. No, I couldn't.

Captain SHAVER: Is that on our list? Isn't it chocks?

Mr. MINOR: Cleats and chocks.

Captain SHAVER: That isn't on our list.

Mr. MINOR: Isn't that the same as cleats?

Captain SHAVER: Some times they call them cleats or cavels.

Q. Chocks. Do you know the value of chocks?

A. Run the same as cavels.

Q. Three and a half cents per pound?

A. Three and a half cents per pound.

Q. I call your attention to this portion of the itemized statement furnished the Columbia Contract Company by the Shaver Transportation Company, as follows: "Johnston's Log Towing Estimate should not have been headed 'Log Towing Equipment' as it consists of our lists as follows:" Then follows other items with prices opposite the same, amounting all together to \$1490. Have you looked at that?

A. Yes, I have looked at that part of it.

Q. You have read that over? Now, are you able to testify as to the reasonable market value of those items mentioned in that part of the statement to which your attention has been called?

A. No, sir, I wouldn't care to; not off-hand.

Q. You couldn't testify regarding that?

A. No, sir, I wouldn't like to. Not that estimate that way, I wouldn't.

Q. What is the difficulty about it?

A. Well, it isn't plain enough, so you could tell what the equipment would consist of all together.

Q. Following that statement on the next page seems to be an itemized statement of the items constituting the \$675.81, and of the items constituting \$215.30. Have you looked at that part of it?

A. Yes, sir.

Q. Now, can you tell from an examination of that itemized statement as to the reasonable value of those articles mentioned in that, the reasonable value?

A. Only part of them. I have a list of part of them. Part of them I haven't.

Q. Now, the next item on this statement is 175 feet of three-quarter inch chain put in at \$125. Is there any way you could tell what is the reasonable value of that chain?

A. I have no price list on that.

Captain SHAVER: Doesn't that say anchors and chains?

Mr. MINOR: I gave it just as I find it on the statement, Mr. Shaver. 175 feet of $\frac{3}{4}$ inch chain, \$125.

Captain SHAVER: Here are the anchors, here, all \$125.

Mr. MINOR: Oh, it is all these four.

Mr. C. E. S. WOOD: Nothing else is carried out, you see.

Q. Do you know what the value of anchors are in this market?

A. No, sir, I don't; I haven't purchased any.

Q. Now, here is an item, 200 feet of $\frac{3}{4}$ inch galvanized cable. Do you know what the value of that is in this market?

A. It depends on the kind of cable. There is three or four—two different kinds of cable we buy. Galvanized cable runs from $11\frac{1}{2}$ to 14 cents a pound.

Q. What does it weigh to the foot— $\frac{3}{4}$ inch?

A. That I have no list on. I couldn't find out. I haven't that at all.

Q. You know what the iron snatch block are,

don't you?

A. Yes, sir.

'Q. Can you tell me anything about the value of such iron snatch blocks?

A. 3 16-inch snatch blocks?

Q. Yes.

A. Well, those blocks are worth now about \$25 apiece.

Q. Now worth \$25 apiece?

A. Yes, sir; new blocks.

Q. Now, the next item on this statement, Mr. Shaver, is "on our steamer M. F. Henderson equipment list on engine department of tools, extra wheel buckets, arms, etc., beginning with twelve wheel buckets, and ending with two coal cuts." I don't know where that comes in.

Capt. SHAVER: That is on this list, Mr. Minor. It isn't there.

Cross Examination.

Questions by Mr. C. E. S. WOOD:

Mr. Shaver, are you any relation to Captain Jim Shaver?

A. I guess I am a distant relative.

Q. What is the size of the steamer Gamecock, her dimensions?

A. Well, I can't tell you exactly. It is in the neighborhood of 155 feet in length, 36 foot beam.

Q. What is the dimensions of her engines?

A. 18½ diameter, and seven foot stroke.

'Q. Do you know what size boiler she carries?

A. Well, I couldn't give you all the dimensions. It is a 72 inch shell, but I couldn't give you the dimensions all the way through.

Q. What power is she supposed to have?

A. Well, I couldn't give you that without I would figure it up, and give it to you that way. Been a good while since I figured it out.

Q. Your company is the same company Captain Jones is interested in?

A. Yes, sir.

Q. You don't tow ships?

A. No, sir.

Q. Just tow rafts?

A. Just tow rafts.

Q. What, in a general way, is the equipment of the towing engine, and the appurtenances that go with it for towing rafts? Well, I will ask you the particular questions: What is the size of the towing engine?

A. The Gamecock's towing engines is 8 x 10.

Q. And what make?

A. It is built by our own selves.

Q. Built by yourselves?

A. Yes, sir.

Q. Do you know the price of the standard towing engine of that size?

A. Well, I could tell you—not what you would call a standard, no, sir, I don't. Only as to our own building.

Q. Now, what comes with that towing engine, in the way of equipment for towing rafts?

A. Nothing at all; just the engine itself.

Q. Just the straight engine; and what steam steering gear do you use?

A. We have one Turner gear, and the others are our own make.

Q. Built them yourselves?

A. Yes, sir.

Q. Well, what is the price of the standard Turner gear?

A. Well, I couldn't tell you what the price is at the present time.

Q. Have you any idea in round numbers, approximately?

A. No, I don't. I know what the—another shop that is building them, I know what they charge for them.

Q. What did it use to be, as far as you know?

A. Well, \$450 is what Mr. Hicks charged for the Turner gear when he was making them.

Q. What did that include, that price?

A. That included just the steam cylinder, the oil cushions, the sheaves and the turnbuckle; no cable or anything of that kind.

Q. Are you sure that Hicks furnished oil cushions?

A. Yes, sir, he did; I have built—helped him build three gears there that we put the oil cushions on.

Q. Now, what is the cost of the hog chains ready to set up? I understood you to give the pound price in Norway iron or steel as only the price for the raw

material or rods?

A. Yes, sir, that is what it is.

Q. And what would be the price, including the king post bands? And the screws, everything complete for setting up?

A. That depends altogether on the size and construction.

Q. Well, such ones as the Gamecock, we will say, would have?

A. Well, those chains would have, adding to the price—we would have to add the price of labor. That is the only way you could get at it.

Q. I mean, are you prepared to make a guess on that, what it would probably be?

A. Well, not all of it. I wouldn't like to. Some of it is rather hard to give an off-hand price on.

Q. Who else built the Standard Turner steering gear here in town besides Hicks?

A. I couldn't say that anybody that I know of.

Q. Did Hicks build the Turner gear, or a gear patterned on the Turner gear and similar?

A. Well, I don't believe that Hicks built the Turner gear right on the Turner pattern, for I don't think he could. I think it was a gear similar to the Turner gear.

Q. Now, what are the dimensions, as far as you know, of the Henderson?

A. Well, I couldn't tell you the exact dimensions of the Henderson, because I never looked at her papers or anything to give me any idea of the exact size

of it. I know she was something near the size of the Gamecock, or nearly so. A little one way or the other.

Q. You are not then familiar with the actual towing engine—the actual engines that she had?

A. No, sir.

Q. What chocks or cavels does the Gamecock have, in the way of size and number and weight?

A. Well, they would be—she has about six cavels of large size, but I couldn't have any idea what they weigh.

Q. You haven't. I tell you the reason I am asking you is, you gave the weight of the metal?

A. Yes.

Q. And I want to get the price per cavel. Let me ask you in this way: An extra heavy, extra large, first-class cavel for towing boats, would it, in your opinion, cost as high or a reasonable price of \$10.00?

A. Let's see—\$10.00? No, I hardly think it would.

Q. Give me your idea of cavels of extra size and weight for towing purposes?

A. No, sir, I don't believe those cavels would weigh 286 pounds.

Q. What do you think, then, they ought to cost?

A. I think they would weigh in the neighborhood of 175 or 180 pounds apiece.

Q. And that would make how much money, according to your figures?

A. \$6.30.

Q. Now, suppose, as a matter of fact, actual fact, they did weigh 205 pounds. Give me the price on

that, will you?

A. \$7.17½.

Q. That is just for the cavel?

A. Yes, sir.

Q. Then, if you add to that the bolts and the plates which the bolts hold, and the complete equipment of the cavel, as fastened to the deck, it should approximate pretty close to \$10.00, wouldn't it?

A. Would run just about ten dollars; would be—yes, sir, would be right close to ten dollars.

Q. How many chocks has the Gamecock?

A. Two.

Q. Two?

A. Two, yes, sir.

Q. What size?

A. Well, I couldn't give you the exact dimensions.

Q. Well, approximately.

A. Well, they are about—about the largest size there is used on the river boats.

Q. I understood you had no towing equipment for ships?

A. No, sir; we don't tow ships.

Witness excused.

T. E. FOLLETT, a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

Mr. Follett, what is your business?

A. I am sales manager for M. L. Kline, jobbers

of plumbing supplies and steam goods.

Q. City of Portland?

A. City of Portland, yes, sir.

Q. Are you familiar with the value, market value, in the city of Portland of pipe?

A. Yes, sir.

Q. Such as used in stern wheel steamboats on the river?

A. On the regular merchant steel pipe. I suppose that is used. I am not an expert on different kinds of pipe.

Q. Have you seen the itemized statement of the pipe on the steamer M. F. Henderson, which was furnished the Columbia Contract Company, by the Shaver Transportation Company?

A. Yes, sir.

Q. Which paper I now show you?

A. I don't know who furnished it.

Q. I say this paper I now show you. You have seen that?

A. I hardly recognize it, but it was a similar list on which we figured.

Q. You recognize it?

A. It is a similar list. Of course I can't remember the items.

Q. Now, did you make an estimate of the market value of the pipe and valves included in that list?

A. I did, sir; that is the list there.

Q. This is the list which you made? I wish you would state what it amounted to?

A. Total amount \$487.70.

Q. \$487.70?

A. Yes, sir.

Q. Is that estimated new?

A. Beg pardon?

Q. Is that the estimate of pipe and valves new?

A. Yes, sir; market value new material, of course.

We don't carry anything but new.

Q. What date was that made, that estimate or list?

A. That, I have forgotten. It was made some time this month.

Q. I just want to know during the last two or three weeks.

A. Yes, about two weeks ago.

Q. The estimate which you made was of the value as of that time?

A. At that time, yes, sir.

Q. How does the value at that time compare with the value of like valves and fittings in July, 1911?

A. As a comparison of 1911?

Q. Yes. Was it higher or lower than 1911?

A. Approximately the same. In the meantime there had been several fluctuations. Pipe has advanced and declined, but the price is approximately the same. Was a little difference, for instance, since I priced this list; the price of pipe has advanced.

Q. In July, 1911, the same or was practically the same?

A. Practically the same, yes; very little differ-

ence.

Q. In your estimate of four hundred and some odd dollars, did you include nipples and things of that sort?

A. Nipples are included I see here; yes, sir, such items as we carry in stock, and have furnished the Columbia Contract Company, is what we figured on from the list submitted to us.

Q. In other words, as I understand now, your estimate includes—

A. In a general way I can tell you exactly. Pipe, fittings, all pipe fittings, valves, packing. That would cover it. I believe there was some packing on this.

Q. Nipples, you say?

A. Nipples, that is pipe fitting. Would be sleeves, unions, etc., included in that.

Q. Sleeves, unions, etc., included in that?

A. Yes, sir.

Mr. C. E. S. WOOD: I think we ought to show the identity between his estimates and this list in some little clearer way.

Mr. MINOR: He said he made his estimate up of the items on that list, Mr. Wood.

Mr. WOOD: But it doesn't include this entire list.

Mr. MINOR: Includes all the piping, valves, and things of that sort. Have you shown what items of the statement is estimated?

A. Such items as we carry, of course are included. Don't include pumps, chains, etc., that we are not fa-

miliar with the prices on. That can be compared very readily. That is what it was taken off of originally.

Mr. WOOD: This list that is headed, "M. L. Kline" is what you took off from the list furnished you?

A. Yes, sir.

Mr. WOOD: And on which you made your estimate?

A. Yes, sir.

Mr. WOOD: We offer in evidence the itemized list of detail, requested by the Columbia Contract Company, and in that connection, to explain the testimony of the witness, we will offer also his statement.

List furnished Columbia Contract Company by Shaver Transportation Company marked "Libellant's Exhibit 33."

Estimate of M. L. Kline, marked "Libellant's Exhibit 33-a."

Cross Examination.

Questions by Mr. C. E. S. WOOD:

Now, I will ask you from memory, as these lists are pretty voluminous, whether you remember whether there are in the list any Lunkenheimer regrinding Globe valves?

A. I will tell you. I didn't take the list off. All I did was put the discounts, and I referred it to a clerk who listed it and extended it. I have no recollection. It has been over two weeks ago, and have so many similar equipments I don't remember the items. I be-

lieve, though, there were regrinding valves in it.

Q. Is there such a valve known in the trade as Renewal?

A. Renewal? Yes, sir; that is a Lunkenheimer valve.

Q. Would you know from your own knowledge what a two inch Renewal would be worth?

A. I can tell you the discount, not the list; I don't know just what the list is. What is it?

Q. It is a globe, two inch Renewal globe.

A. It would be worth approximately \$5.00.

Q. That would be net after taking off the discount?

A. That would be net. For instance, the list would be \$7.50 or \$8.00, and the discount thirty or thirty five.

Q. What would be the list on the same size Lunkenheimer—whatever his name is—regrinding Globe valve?

A. Instead of Renewal?

Q. Instead of Renewal; same size, two inch.

A. There is a difference in the list which I don't remember. Would be approximately ten or fifteen per cent on the net.

Q. Ten or fifteen per cent higher or lower?

A. Lower, for regrinding.

Q. How did the man that made up these prices arrive at that? Does he take manufacturers' lists, and then figure the discount on them?

A. We have a regular price department, and

amongst other customers are the Columbia Contract Company. We have a separate sheet for the Columbia Contract Company, of discounts. The lists are all the same. Manufacturers all use the same list, and when the list is given to the price clerk, he puts the list prices down, and extends down the number of each item, and refers to me, and I put the prices, the Columbia Contract Company get on such items.

Q. What the company is entitled to?

A. Yes, sir; that we sell them at.

Q. So you were putting down the special prices at which you furnished to this particular customer?

A. At the price which we furnished. I wouldn't say special price. We give them the best trade price. They are entitled to that as a large buyer; nothing special beyond that, the price they get regularly. If they were going to order tomorrow, they would get those prices.

Q. I understand that. But the price to them as large customers?

A. Yes, sir.

Q. Now, the thing I want to get at—I don't know whether I understand it or not. You are not manufacturers yourselves, are you?

A. Jobbers.

Q. So that as a basis of this price, there is the manufacturer's list price. That is what you start with, isn't it?

A. It is the custom; all manufacturers adopt the

same list price for Lunkenheimer valves, not on such special articles on special valves as Renewals, but Standard valves take the same list, Lunkenheimer, Williams,—whatever it may be.

Q. Every manufacturer?

A. Every manufacturer; all use the same list; that is, catalogue list.

Q. Is that what you start out with on your figures?

A. No, we start out with the discounts. It is the discount that determines the difference in the net price. The list is all the same.

Q. Still it is the basis. Put it this way: You take the list price; then you take the discount allowed you on that list price?

A. Yes, sir.

Q. So after all the list price is the basis?

A. The list is the basis, of course; some customers get better discounts than others.

Q. I understand that. Then you take the discount on that list price which is allowed you?

A. Yes, sir.

Q. Which is practically the price to you?

A. Yes, sir.

Q. And then on that you figure your own price to the customer?

A. That is the idea; resolve it to net, and add a profit, and determine a discount of our own, a result of the discount.

Q. No, I didn't ask you. Did you figure in this

pipe any steam exhaust pipe?

A. I don't remember that, sir. I don't believe it is even mentioned as that; just so many feet of pipe, as I remember.

Q. I don't think Mr. Shaver gave us the size or quantity of that?

Captain SHAVER: Steam pipe?

Mr. WOOD: Steam exhaust pipe.

Capt. SHAVER: That is separate somewhere.

Mr. WOOD: I would as soon attempt to remember the directory of the City of Portland as this list.

Capt. SHAVER: It is there somewhere, I know.
Witness excused.

C. A. PUARIEA, a witness called on behalf of the Claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

What is your business, and where do you reside?

A. I am with the Columbia Contract Company, and I live in Portland.

Q. And what part of the work of the Columbia Contract Company have you charge of?

A. How is that?

Q. What part of the work of the Columbia Contract Company have you charge of—what part of their business?

A. Well, I have the details of practically all of it at this end.

Q. Do you do any purchasing for them?

A. I do.

Q. What part of their purchasing do you do?

A. Practically all of it.

Q. How long have you been doing that work for them?

A. About four years.

Q. Are you acquainted with the market value, in this market, of the electric light plants such as are used on the river steamboats?

A. Yes, sir.

Q. Ever buy any such plants?

A. Have bought three or four.

Q. When did you buy them?

A. Well, I bought two, bought three in the last three months.

Q. Did you buy any in 1911?

A. I think so.

Q. You think you did?

A. Yes.

Q. Have you examined the statement furnished by the Shaver Transportation Company to the Columbia Contract Company of the electric light plant which they claim was on the Henderson at the time she was sunk?

A. I did.

Q. Are you acquainted with what was the market value of an electric light plant of that character?

A. Just about, yes, sir.

Q. I wish you would state about what the market value of such an electric light plant.

A. Would you want the whole thing complete,

with all the lights and wiring, switches and switchboards?

Q. Yes, everything complete.

A. Such a plant installed would cost about \$750 or \$760. That includes lamps, wiring, switches, rheostat, and ammeter, volt meter, engine and generator.

Q. Including everything which is set forth—that Mr. Shaver furnished to the Columbia Contract Company?

A. It would include more than was included in that list. This includes the entire plant.

Q. Now, Mr. Puariea, what was the market value of such a plant in July, 1911?

A. Well, there has been a little raise in that material since 1911 but just how much, I couldn't say.

Q. There has been a raise, you say?

A. There has been an advance in that class of machinery.

Q. Did you purchase any capstans for boats of that character—ever?

A. Yes, sir.

Q. When, and how many?

A. Am buying them all the time.

Q. Did you purchase capstans for boats of that character in 1911?

A. Yes, sir.

Q. Are you familiar with the market value here of No. 2 and No. 3 capstans?

A. I am familiar with the price, I know what we paid for No. 2, but I couldn't tell you positively what

we paid for No. 3.

Q. What is the market value of No. 2?

A. We pay \$61 for No. 2.

Q. And is that larger or smaller than No. 3?

A. It is smaller than No. 3. No. 3 is the next size larger.

Q. You don't know what the market value of No. 3 is?

A. No, I don't. It is my recollection that it would be about \$12 difference. I couldn't say positively as to that, but that is my impression now, that there is about \$12 difference.

Q. How did the market value of such articles in July, 1911, compare with the value of such articles now?

A. There has been a slight advance.

Q. Since July, 1911?

A. Yes, sir.

Q. Did you ever buy any fire extinguishers, such as used on stern wheel river boats?

A. Sir?

Q. Did you ever buy any fire extinguishers such as used on stern wheel river boats?

A. Yes, sir.

Q. When have you bought these, and about how often have you bought them?

A. Oh, I have bought these, am buying them all the time. Have bought them ever since—for the last four years. Are buying fire extinguishers every few months.

Q. What is the market value of fire extinguishers of that character?

A. Regular three gallon size?

A. I don't know what size they are.

A. Yes, a three gallon size. That is the extinguisher passed by the steamboat inspectors—cost us \$8.50.

Q. \$8.50?

A. Yes; they are practically all the same price. Once in awhile an agent wants fifty cents or a dollar more for his particular kind.

Q. Did you furnish Mr.—this gentleman who just preceded you on the stand, I have forgotten his name—a list from which he made his estimate for piping and fitting and valves?

A. I did.

Q. The list which you furnished him was the same one which has now been offered in evidence?

A. That is the list.

Q. Did you furnish the same list to Mr. Shaver?

A. I did.

Q. The same list, was it?

A. The same list.

Q. Do you know anything about the value of such furniture as is found on steamers, river steamers in this vicinity?

A. Yes. There isn't very much furniture on them as a rule.

Q. You know anything about the difference between the first cost of such furniture, that is to say,

furniture new, and the value of such furniture which is second-hand, and used for some years?

A. Well, the market value of the second-hand furniture of a steamboat, if put up for sale, wouldn't be very much.

Q. How would it compare with the price, the market value of the same stuff when new?

A. Had been used how long?

Q. How long had this furniture been used, Captain, about 10 years?

Capt. SHAVER: Yes.

Q. Been in use about ten years.

A. I wouldn't say would be very much of the first cost.

Q. Well, what percentage of the first cost would you think it was?

A. You would be doing pretty well if you got 10 or 15 per cent of the first cost. I don't think you could get it.

Cross Examination.

Questions by Mr. C. E. S. WOOD:

What would be the price of a hair mattress in 1911?

A. I don't know, sir; I never bought a hair mattress for a steamboat.

Q. You never bought one?

A. No.

Q. Well, the Henderson had them, and therefore I would like to get your idea. That is in evidence. I would like to get your idea of the value.

A. Of a hair mattress?

Q. Yes.

A. What size?

Q. Well, the ordinary hair mattresses for a double berth in a steamboat.

Capt. SHAVER: Three quarter berth.

A. Regular three quarter.

Q. Three quarter berth?

A. Well, I never bought a hair mattress. We use cotton tops.

Q. Well, do you think a hair mattress would depreciate down to ten or fifteen per cent?

A. In ten years?

Q. Yes.

A. Well, if a hair mattress had been used on a steamboat for ten years, I wouldn't give anything for it, and I don't believe anybody else would.

Q. Have you renewed the furniture on the Hercules since you have been with the company?

A. Renewed it?

Q. Yes.

A. Well, we just buy what we need, you know, as replacement is required.

Q. Is the Hercules fitted for a passenger boat, passenger traffic?

A. No, she is a tow boat.

Q. Just fitted as a tow boat; has such furniture as the crew needs?

A. Yes, sir.

Q. That is all?

A. Yes, sir.

Q. What fire extinguishers do you buy? You speak of buying them constantly.

A. Bought the Badger, and the Acme, and the Gold Seal and that class.

Q. Where did you buy them?

A. We bought the Badger from the agent of the Badger—I have forgotten his name now. We bought quite a good many of these. They are a very nice extinguisher, nickle plated, easily kept clean. In other respects they are very similar to the Gold Seal. They are all alike, practically.

Q. All alike?

A. Yes.

Q. Then they all ought to be the same price, shouldn't they?

A. They ought to sell at the same price, but you will find there is usually—some of them want a little more than another, about fifty cents difference.

Q. Well, Long & Company's?

A. Never bought any from Mr. Long.

Q. Are they reliable people?

A. I never considered them so. That is why I don't buy any.

Q. Why not?

A. Why not?

Q. Yes.

A. Because you couldn't get anything for a reasonable price. If you sent for anything in a hurry, he would soak you.

Q. Suppose you were not in a hurry?

A. Then I would go somewhere else anyway, because I would get the right kind of goods at the right kind of price.

Q. What is the right kind of price for an International three gallon?

A. International? I don't know whether that is exactly like the others or not, but I imagine it is like the Gold Seal, and the right kind of a price would be not to exceed nine dollars. If giving more than nine dollars, it is too much.

Q. Suppose you can't get them anywhere for less than \$12. Then what about it?

A. But you can.

Q. Where?

A. Any place.

Q. Have you bought the International?

A. The International, no, sir.

Q. Then you don't know anything about what you are talking about, do you?

A. Well—

Q. Answer that. You don't know anything about the price of the International.

A. No, sir; but similar ones are nine dollars.

Q. Have you seen the International?

A. I couldn't say whether I have or not.

Q. So you don't know what it is similar to, do you?

A. Yes, sir.

Q. How do you know that?

A. You say International, three gallon chemical

extinguisher?

Q. Yes.

A. Yes, sir.

Q. How do you know that?

A. I know you can't show me any three gallon fire extinguisher, of any make, that has got twenty-five cents over another. All alike; if all passed by the inspectors of the steamboats, all practically the same thing.

Q. Do you know the Patrol?

A. Yes, bought them.

Q. What are they worth?

A. The Patrol, we pay \$9.00 for the Patrol.

Q. What size is that?

A. Three gallon.

Q. Whom do you get them from?

A. We get the Patrol from the Goodyear Rubber Company.

Q. They are reliable people, are they?

A. Yes, sir, they are.

Q. All right. And what do you say the price of the Gold Medal was—you call it the Gold Seal—it is the Gold Medal?

A. Gold Medal, I think.

Q. What is the price of that?

A. Same as the Patrol.

Q. What is that?

A. \$9.00.

Q. Then if you wanted that, and the company wouldn't sell them for less than \$10.00, what would

you say about that?

A. I would show you bills where they had.

Q. For how much?

A. \$9.00.

Q. Well, bring them. I would like to see them. We will find out about the Goodyear Company. Are they reliable people?

A. They are.

Q. I would like to see those bills. Now, how about the Babcock—is that a good extinguisher?

A. I don't know anything about the Babcock; never bought any of those.

Q. Don't know anything about it. How does a five gallon extinguisher compare with a three gallon?

A. I have never bought a five gallon.

Q. Now, you are only stating this from your personal experience in making purchases, not as having a general knowledge of the market price of these articles?

A. Well, I don't suppose that we are buying under the market price from these reliable people. They are not giving us anything.

Q. I say, you say you don't know the market price of the five gallon?

A. No, sir.

Q. That is because you never bought them?

A. We don't buy them.

Q. Now, I am trying to draw the distinction between you and a man who deals regularly in them. Your basis of information is just your own dealings,

what you pay?

A. What I buy them for.

Q. Yes. That is all.

Mr. MINOR: You don't want those bills, do you?

Mr. WOOD: Yes.

Mr. MINOR (To Witness): You will have to get them.

Mr. WOOD: If the Goodyear Company were dealing differently with us at that time, we want to find it out and put it in evidence.

Witness excused.

DANIEL KERN, resumes the stand for further

Cross Examination.

Questions by Mr. C. E. S. WOOD:

Mr. Kern, you said you were carrying the Hercules on your books at \$22,500 and I dare say you meant to answer that as her value, and yet that isn't an answer to what you value her at. You might carry her on the books differently. Is that what you mean as her value?

A. I don't think she is worth any more than that at the present time.

Q. Would you be willing to sell her for that?

A. Well, that is another question.

Q. No.

A. The value of the boat is what she will bring in the market.

Q. Well, I mean supposing—

A. I might have a boat, and I wouldn't sell it at

all at any price. We might be in such a position that we couldn't sell it.

Q. That is one of the very elements that we think is in this Henderson. What I mean is, supposing you were offered today, \$22,500 for the Hercules, would you take it?

A. I would take it if I could find I could get along without her.

Q. Oh, yes. How does she compare—you said she was about the same kind of a boat as the Henderson. Now, there were some differences, I think.

A. Well, she was a better boat, if anything, than the Henderson.

Q. She was never fitted up for passenger traffic.

A. That fitting up of passenger boats don't amount to anything; maybe four or five or six hundred dollars; maybe six hundred dollars extra.

Q. You mean building a house for passengers?

A. Building house, yes, sir.

Q. And fitting with bed—staterooms?

A. Yes; don't amount to very much.

Q. Bedding. It could be done for seven or eight hundred dollars?

A. Yes, a thousand dollars would probably do it.

Q. Did you ever fit them up in that way on the river?

A. No.

Q. Your boats are exclusively in the towing business?

A. Yes, sir.

Q. Do your boats tow ships?

A. No, we don't tow any—we have towed ships, but we don't make a business of it.

Q. When was the Hercules built?

A. In 1899.

Q. '99. What did she cost you for building complete, all her equipment?

A. Well, she was a second-hand boat when we got her. We bought her at—she was practically new, but she had never been used, but she had been wrecked.

Q. Who was her builder?

A. Mr. Johnston built the hull.

Q. The same man that was on the stand here?

A. Yes, sir.

Q. Is he a good boat builder?

A. Well, he is fair.

Q. Do you consider that the Hercules was well built?

A. Yes, she was well built, but he built her after our orders.

Q. Good material in her?

A. What we supposed was good material.

Q. Well, was it?

A. I couldn't say. I am not an expert on material. Supposed to get good material on her.

Q. You didn't give me the cost on her?

A. What is that?

Q. The cost of building.

A. Cost of the Hercules when she was built?

Q. Yes.

A. She cost us \$19,000.

Q. How much was her equipment?

A. Equipment? Well, I couldn't say. We used most of the equipment that we got with the boat at the time.

Q. Other boats?

A. And other boats. We bought two boats that went to Alaska.

Q. What was the size of her boilers?

A. I couldn't say, but ample for the engines. The engines are the same size as the Henderson's, and we are allowed more steam than the Henderson.

Q. Has she got the same engines in her now?

A. Yes, sir.

Q. And you say allowed—

A. We are allowed 175 pounds of steam. I don't know what the last inspection was. That was what we were allowed last year.

Q. Haven't been cut any?

A. No.

Q. How old is that boiler?

A. About 14 years.

Mr. ERSKINE WOOD: Is that boiler the same size as the one on the Henderson?

A. I don't know.

Q. I want to ask you. I think you already answered this, but you said at the time the Henderson was lost, you weren't personally acquainted with what equipment she had. Is that right?

A. No, I don't know anything about her equipment.

Q. Well, as a matter of fact, the Shavers keep their boats up in good shape, don't they?

A. I don't know.

Q. Don't know anything about that?

A. No, never examined them.

Q. What is their reputation in that respect?

A. I don't know that I have ever heard that expressed, what their reputation is.

Q. Well, there is a difference in reputation between men on the river and the coast, as between those that keep their boats up in first-class shape, and those that neglect them, isn't there?

A. Well, there may be, but I don't know.

Q. Never heard it discussed?

A. No.

Mr. MINOR: I don't know of anything else for Mr. Kern, but I would like to have a little talk with him. I have one other witness. I can't say whether he will be here today or not, but we expect him.

Mr. WOOD: What is the nature of his testimony?

Mr. MINOR: A statement Mr. Shaver made in his presence. It will be very short, Mr. Wood.

Witness excused.

Whereupon proceedings herein adjourned until 2:30 P. M.

Monday, June 9, 1913, 2:30 P.M.

Mr. MINOR: Mr. Wood, I hand you these bills from the Goodyear Rubber Company, which you

asked for before the noon recess, and will offer them in evidence in connection with the testimony of Mr. Puariea.

Marked "Claimant's Exhibit F."

Mr. ERSKINE WOOD: I am going to put in this report of the Insurance Company, which has been marked before for identification, and I will have to call Mr. Honeyman to further identify it, unless you are willing to admit that it was made by Crowe, Honeyman and Carstens, Crowe and Honeyman acting for the Insurance Company, and Carstens acting for the Standard Oil.

Mr. MINOR: I can't say I can admit for whom they were acting, for I don't know, but I will admit that they made that report, and object to the report as incompetent, irrelevant and hearsay, and the witnesses are not sworn.

Mr. GUTHRIE: We think it is objectionable; as far as the report goes itself there is no evidence these particular items were on the boat. We have testimony to the effect that those items were on there, but the report itself is no evidence of it. We will be willing to admit it is the report Carstens identified and Honeyman identified.

Mr. ERSKINE WOOD: Mr. Minor doesn't want to admit it was made for the Insurance Company. Mr. Minor is willing to admit this is Crowe and Carsten's report, but he is not willing to admit Crowe and Honeyman were acting for the Insurance Company.

Mr. MINOR: No, I am not willing to admit those

items were properly identified. They are mere hearsay.

Mr. ERSKINE WOOD: We can call Kirk Smith or Honeyman.

Mr. MINOR: Honeyman said he took the items from Mr. Shaver.

Mr. ERSKINE WOOD: Sure he did; some that were lost. He never saw them. No question about that. It is not so much a question of accuracy of the items, as who they were acting for. We don't want to be bound by it. We want to offer it simply to complete the testimony.

Mr. MINOR: I don't know who they were acting for.

Mr. WOOD: Can't you inform yourself so as to save trouble?

Mr. MINOR: I don't know as I can.

Mr. WOOD (To Mr. Guthrie): You know that.

Mr. GUTHRIE: I suppose so. I understand so. I have no objection to it going in.

Mr. WOOD: We will call Mr. Honeyman or Kirk Smith.

DANIEL KERN, recalled for the claimant.

Direct Examination.

Questions by Mr. MINOR:

Mr. Kern, after the Henderson was put on the ways, did you have any negotiations with a view of having the hull of the Henderson repaired, so as to make a barge of her?

- A. Yes, sir.
- Q. By whom were the estimates made?
- A. Mr. Nelson of the Portland Shipbuilding Company.
- Q. The same party who testified here?
- A. Yes, sir.
- Q. And what did he offer to take the hull of the Henderson and repair her, and fix her up for a barge, for?
- A. \$3,000.
- Q. Is it necessary to have the hull of a barge as strong as the hull of a tow boat?
- A. Has to be stronger for a barge?
- Q. Why?
- A. Because they have no hog chains to support them.

Witness excused.

CAPTAIN J. E. COPELAND, recalled for the claimant.

Direct Examination.

Questions by Mr. MINOR:

Captain Copeland, did you ever have anything to do with the Henderson?

- A. Well, some, yes, when she was a new boat.
- Q. When she was a new boat?
- A. Yes, sir.
- Q. Did you ever have any talk with Captain Shaver as to her cost?
- A. I had a conversation with the captain one time, when I had her hired, I believe, for the North Pacific

Lumber Company, to get a few logs back that were broken loose from the mill.

Q. What did he tell you in regard to her cost?

A. Do you want the conversation?

Q. Yes.

A. The conversation the captain and I had was like this: I asked if he intended to put a light plant in her. There was no light plant in her at that time, and I asked if he intended to put a light plant in her. He said he didn't know. The boat cost so much money, he didn't know whether to put a light plant in or not. I suppose I was a little inquisitive, and I asked him what she had cost him, and he said at that time \$32,000.

Q. Captain Copeland, did you ever have anything to do with raising sunken vessels on the Columbia River?

A. Well, some, yes.

Q. What vessels have you had to do with raising?

A. I assisted in raising the Kern, and I assisted Captain Shaver in raising the Shaver when she was sunk. I also raised the Gamecock myself.

Q. What was the last one? I didn't hear.

A. The Gamecock.

Q. I will ask you to state how many tow boats it would be necessary to have to properly and expeditiously do the work of raising a boat of that character in the Columbia River.

A. Well, when we raised the Shaver, we had no

tow boat at all, and when we raised the Gamecock, we had no tow boat; when we raised the Kern, we had one tow boat standing by.

Q. Where was the Kern sunk?

A. She was sunk abreast Waterford Light in the Columbia River, about 65 miles down, pretty near.

Q. Do you know where the Henderson was sunk?

A. Yes, sir.

Q. How deep was the water where the Kern was sunk?

A. 65 feet.

Q. And how was the current at that point of the river, as compared with the current at the place where the Henderson was sunk?

A. About the same; isn't very much difference in the current along there; only a few miles difference in the places where the two boats sunk.

Q. Where was the Gamecock sunk?

A. Snuk in the Cowlitz River, about two miles up on the Cowlitz River.

Q. How deep was the water where she was sunk?

A. Fourteen feet where she was sunk.

Q. And how deep was the water where the Shaver was sunk?

A. The Shaver was sunk in about fourteen feet of water.

Q. In the Columbia River?

A. Yes, sir.

Q. How was the current there?

A. Well, there wasn't much current there. It was

in the fall of the year, and the water was low.

Q. How does the current there compare with the current at the place where the Henderson was sunk?

A. Well, at different times in the tide, the current was stronger where the Henderson was sunk, than it would be where the Shaver was sunk.

Q. Captain, some questions here were asked as to the force of the current of the Columbia River near Astoria, and the force of the current in the Columbia River where the Henderson was sunk. What, in your opinion, is the character of the current?

A. Well, that would depend on the tide. At ebb tide, the current is always stronger nearer the bar. For instance, at Fort Stevens, on a nine foot tide, the water barely slacks the current there, and when it starts, it is much stronger there than it is at the quarry at the present stage of the water.

Q. In raising a boat like the Henderson, at the place where she was sunk, is it necessary to have a launch to run along?

A. Well, a tender would be very acceptable. Of course, a person could, I suppose, get along without it, but they are quite a necessary thing; that is, one tender.

Q. And one tow boat?

A. Yes, one tow boat.

Q. That is all?

A. Yes; we had one tow boat in raising the Kern. Of course, we didn't use her but very little. We occasionally used her to pull the Kern out on higher

land. Probably used her two hours a day.

Cross Examination.

Questions by Mr. C. E. S. WOOD:

You have been on the stand before in this case?

A. Yes, sir.

Q. And then, I think, you testified that you are working now for the Columbia Contract Company?

A. I am, yes, sir.

Q. Now, can you tell approximately when this conversation was with Captain Shaver, about the cost of the Henderson?

A. I don't remember the year in which it occurred. It was when I was working for the North Pacific Lumber Company, and I think the captain will remember when it occurred, because he himself called me up about four o'clock in the morning. He had a passenger run, I think on the Klatskanine route, and the logs got loose from the North Pacific mill, and drifted down crossways just below the flour mill, at the beacon.

Q. I have no desire to interrupt you, if it helps the case, but all I want to get at is the year—not the truth of your story at all.

A. Well, when was the Henderson built, Captain, —may I be allowed to ask that—in what year?

Captain SHAVER: 1900.

A. That was the year this occurred; in the fall of the year.

Q. Did you ever know any two cases of sunken

boats that were raised, that were exactly alike?

A. No.

Q. They all differ, don't they?

A. Yes, they differ materially.

Q. Every one offers a problem of its own?

A. Every one offers a problem of its own, but the problem of raising a boat on the Columbia River, they are nearly all raised alike. They are nearly always raised with barges on either side of the vessel.

Q. Yes; but the depth of water, and whether the boat remains upright, or whether she is capsized and turned upside down, and the current, and the bottom, the difficulty of getting chains under her; all those things offer different problems, don't they?

A. Well, yes. They are some different, I suppose. We had quite a little trouble in getting chains under the Kern. That is, they had been trying to get chains under her for about a week when I went down, and hadn't succeeded, but we got chains under her from the forward end.

Q. Did you use divers?

A. No, sir.

Q. What is the width of the Columbia River down at Astoria?

A. At Astoria?

Q. Yes.

A. I suppose the Columbia River at Astoria, right straight across from Astoria, is probably ten miles wide at that point.

Q. The force of the current there, then, is really

tidal force?

A. Yes, is tidal force, except at the June freshet. You take the water there now, and even when the tide is supposed to be flooding, there is heavy current there.

'Q. But relatively, as far as the river current is concerned, depending upon the volume of the river water, it wouldn't be so strong down there where it spreads out that enormous distance as up in the narrow channels. I mean just as the river current.

A. No, I presume not. Well, in the ship channel, would be pretty strong there too, because the sands, you understand, are high, although the river is wide. At Astoria, the sands are high, and a great many stick out. And when the water gets along a little, and throws the current in, down the ship channel it is very strong. It is strong there any time of the year when ebb tide.

Q. In the June freshet the sands are covered?

A. No, the June freshet doesn't have much effect on raising the water at Astoria, or in that vicinity.

Q. Covers too wide a space?

A. Covers too wide a space, too much land for it to spread over. Really, the only way the people around Astoria know there is a rising in the river, is when the water muddies.

Witness excused.

Claimant rests.

A. M. CONWAY, recalled by Libellant.

Direct Examination.

Questions by Mr. C. E. S. WOOD:

When you were last on the stand, you were asked to make an itemized list, showing the details of cost of particular parts of raising the Henderson. Have you got that list?

A. Yes, sir.

Q. After she was on the yard?

A. Yes, sir.

Mr. WOOD: We offer that in evidence.

Mr. MINOR: Objected to as irrelevant, incompetent and immaterial, and I also want to object to the several items in it, upon the ground that they are not proper items of damage; for example, C. W. O'Brien in here for 27 days' work, at \$100 a month. I don't know what in the world he was doing, or why he should be employed, and there is the wages of Shaver, L. Shaver, for 18 days, at \$100 a month. I don't know what that was for. H. Shaver, 11½ days' work, at \$2.00 per day. I don't know what that was for.

Captain SHAVER: Don't it say what that was for?

Mr. MINOR: It just says so many days' work at so much a day.

Mr. ERSKINE WOOD: At the top it says raising, cleaning up.

Mr. KERN: It doesn't say whether salvage, repairs, or what.

Marked "Libellant's Exhibit 34."

LIBELLANT'S EXHIBIT 34.

"STR. M. F. HENDERSON.

Itemized statement after other statement was made out for raising, wages, watchman, cleaning up wreckage, moving machinery, etc.

1911

Aug. 17	J. Olesen, 14 days work at \$2.20 per day	\$ 30.80
	J. Olesen, for board	6.75
Sept. 1	Garasai, watchman 27 days in August @ \$2.00	54.00
2	Shaver, H. 11½ days work @ \$2.00 per day	23.00
Oct. 2	Eversaul, W. C. 30 days work watchman @ \$1.75 per day.....	52.50
	O'Bryan, C. W. engineer 27 days work @ \$100.00 per month.....	90.00
	O'Bryan, C. W. Board	15.00
15	Eversaul W. C. Watchman, 10 days @ \$1.75 per day	17.50
Nov. 1	O'Bryan C. W. Engineer, 1 month at \$100.00 per month	100.00
	Dofflemyer, C. W., moving machinery, boiler, engines, etc., from boat to dock	321.15
Aug. 18	Oregon Transfer Co. hauling chains from Port. Sh Yds to O. R. & N. Boneyards	2.50
Sept. 1	Shaver, L. 18 days work @ \$100.00 per month	58.00

Oct.	9	Avery & Co. coal chisels, steel letters	4.13
Nov.	2	O'Bryan, C. W. Board	20.00
	9	Honeyman Hardware Co. 1 bar iron	2.13
	7	Sigorich N. 9 days work at \$2.00 per day	18.00
Dec.	1	O'Bryan C. W. Engineer $\frac{1}{2}$ month @ \$100.00 per month	50.00
Aug.		Trenkman B. 12 pike hooks and 12 chain hooks	13.20

			\$878.66

Witness excused.

Mr. MINOR: That is all.

Mr. MINOR: Now, another thing I want to tell you about Honeyman. My recollection is that Honeyman was examined as to that report when he was on the stand (referring to Exhibit 32), and that he said that he was over there for the machinery, and that the items were given him by Captain Shaver.

Mr. ERSKINE WOOD: My recollection is, that the only thing he was examined on there was the salvage, and that, of course, he saw.

Mr. C. E. S. WOOD: I don't think it appears who he acted for.

Mr. MINOR: I don't know whom he acted for. I think he said he acted for some Insurance Company.

Mr. ERSKINE WOOD: That wouldn't cover, unless he said he was up there as the representative of the Firemen's Fund.

Mr. GUTHRIE: We are willing to stipulate that

Crowe represented the Firemen's Fund Insurance Company, in this court.

CAPTAIN J. W. SHAVER Recalled in rebuttal by libellant.

Direct Examination

Questions by Mr. C. E. S. WOOD:

Captain Shaver, do you recall that conversation that Captain Copeland testified to?

A. No, I don't remember anything about it. I might have said it, but I don't remember.

Q. If it occurred in the same year that the Henderson was built, had you at that time completed paying for her?

A. No, sir; our books show that we only paid about \$30,000., pretty near \$31,000. in 1901.

Q. At that time?

A. In 1901, yes.

Q. That was the first payment?

A. Yes, sir.

Q. What were the subsequent payments?

A. Well, the next—

Mr. MINOR: I object to that as irrelevant and immaterial. It doesn't make any difference, as far as that is concerned, what the Henderson cost. You have a right to go into this—

A. Well, in the first place, we wouldn't be very liable to tell an outsider what a boat cost, anyhow, as far as that is concerned. Might have said cost \$30,000. or \$35,000. or may have been anything, but

wouldn't be very apt to tell a man just what the boat cost.

Mr. C. E. S. WOOD: I want to show that whatever was said at that time, they didn't know what it had cost.

A. In 1901, we paid \$30,255.31. In 1902, we paid \$4,920.85.

Q. As a part of the original cost?

A. Yes, sir. In 1904, we put in the oil plant, \$2687.

Q. You mean the oil burning?

A. The tanks and the oil burning plant altogether; piping and fitting and everything.

Q. How much was that?

A. \$2687. In 1905, we put in the electric light plant; cost us \$605.70. We put a ballast tank on that cost \$200. In 1908, we put on a donkey boiler which cost \$350.

Q. Is that all now of that?

A. We have got the extra capstans and some extra heavy chocks, and lines and things like that.

Q. What do they cost?

A. Well, there were six, seven inch Manila lines, \$110.20. Six seven-eighth pennants, \$50.40. Two one-inch tow cables, 150 feet long, \$45.40. Two extra capstans, \$130. Four heavy chocks, \$38.56. Makes a total of \$39,393.42. Wait a minute; I think that is right. Yes, that is right, I think. Thirty-nine thousand three hundred.

Q. I want to explain an item that has been ques-

tioned here to some extent, and that is the cost of hauling the Henderson out on the ways. Does that include putting chocks under her?

A. Putting blocks under her, yes.

Q. Blocks, I mean.

A. Hauling out, blocking up, and taking the cradles out, because they had to use the cradles; she lay there quite awhile, and they had to use the cradles to haul other boats out on.

Q. Now, one other thing. Let's see. Oh, about your salvage operations. There has been some testimony here that one tow boat is enough, or even none at all. I will ask you to state if your boats down there were necessary for your operation.

Mr. MINOR: I object as immaterial.

A. Yes, sir; I considered them necessary, because we needed the boats very bad in towing, and the mills were all hard up for logs, and we needed the boats to straighten the boat up. After we got the boat straightened up, why, we could have gotten along all right with one boat. Of course, the two was better than one in that current.

Q. You mean the boats were needed elsewhere in your business, if you could have spared them?

A. Yes, sir.

Q. So you only kept them there because you needed them?

A. Yes. In trying to get chains under, two boats are better than one, for you get one at each end of the chain, and try to drag them under.

Q. Now, I think all the rest is in evidence. Didn't you testify you had to use finally a diver?

A. We had a diver there, yes. Tried to get two more, and couldn't get them.

Q. He was used to get the chains under, wasn't he?

A. Yes, sir.

Q. I may have to ask something that is already in. How long were you working there before you got the chains under?

A. About four days, as near as I remember.

Q. How long could you work at it, with reference to the slack water?

A. We could, perhaps, work about three hours, I think, or four hours; that is, trying to get the chains under. The current was so strong, we couldn't work under the water. Of course we worked some with boats at different times, trying to get the chains under. The diver couldn't work only when real slack.

Q. Did you have to hold the boats there ready to work?

A. Yes, sir.

Q. At all times?

A. Yes, sir.

Cross Examination

Questions by Mr. MINOR:

You have testified that you paid on account of the cost of the Henderson in 1901, \$30,255.31?

A. Yes; whatever is down there. I don't remem-

ber.

Q. And in 1902, \$4920.85?

A. Yes, sir.

Q. What was the cost in 1902 for?

A. That was on the cost of the boat. We didn't pay it all the first year, you know.

Q. You mean you only paid part of the cost?

A. Yes.

Q. Does it include interest on the deferred payments?

A. No, was no interest. You see, she was built the last of 1901, you know. She wasn't finished up, really, in 1901; that is—

Q. I understood you to tell Captain Copeland she was built in 1900. Didn't you understand that? That is what you told Captain Copeland, built in 1900.

A. Then the last of 1900. The Henderson was built in 1901.

Mr. WOOD: You said 1900.

A. Should be 1901.

Mr. MINOR: You mean she was finished in 1901?

A. Yes, finished in 1901.

Q. She was begun in 1900, then?

A. Well, I couldn't say about that. I don't remember now; built in 1901, but I think it was the last of the year, if I remember right.

Q. You think it was the last of 1901 when she was finished, you mean?

A. Yes; that was the last part of the summer, if I remember right; perhaps August or September.

Q. When finished?

A. Yes.

Q. Started at what time?

A. Well, finished and started to run then.

Q. Started to run in the summer of 1901?

A. Yes.

Q. You think, then, you began her the year before?

A. No, no; we began that spring; early that summer.

Mr. WOOD: He corrects his testimony, as I understand it. When you said 1900, you were mistaken?

A. Yes; if I said 1900, I was mistaken, for I have the year here when she was built.

Q. You can't tell me what this matter was which you paid in 1902?

A. No. It was some of the cost of her, because you see we didn't—we wasn't very flush with money then, you know, and we perhaps didn't pay it all until the next year, and we charged it up the next year, you know.

Q. Didn't charge it up until you paid it?

A. No. We don't, perhaps keep books like some big companies. We are all Shavers ourselves.

Q. Captain, on this paper that you had looking at, I see here cost of woodwork, \$9,041.19. What does that mean?

A. Well, that is what the woodwork cost them.

Q. What it cost them?

A. Yes, sir; we furnished the hog chains and all

that part ourselves, and cavels, and everything. That don't go in with the woodwork. We furnished all of that.

Q. And the cost of machinery includes engines and everything connected with the machinery at that time?

A. This was the cost of machinery from the Portland Iron Works. They claim they lost two or three thousand dollars, as shown on the books, and this is what he said he would build it for.

Q. That is what it cost at that time?

A. This is for the engine and what they furnished.

Q. No machinery they didn't furnish?

A. Yes, they didn't furnish pumps; none of the piping, or none of that part at all. They just furnished the engine and shaft.

Q. The cost of the boiler was—

A. That was the naked boiler.

Q. Now, as I understand, Captain, the woodwork of the boat cost, when built, \$9,041. 19.

A. That is the woodwork itself. Usually, in counting woodwork, they count in hog chains, cavels, rudder stocks, and all that, but we furnished them ourselves. That wasn't in that woodwork.

Q. And the cost of the machinery at that time, when the Henderson was built, was \$5559.60.

A. That was the engines and the shafting, and what part they furnished. No pumps, no piping. We done all that ourselves.

Q. And the cost of the boiler at that time was

\$4234.85? So the entire cost at the time the boat was built was \$19835.64, except what items you furnished yourself?

A. That is the cost of those three items.

'Q. That is the entire cost of the boat except such things as you furnished yourself? And the things you added after 1901?

A. What we paid for those three items; not in there with the cost of the boat. After we furnished all the piping, all the pumps, done all the installing, and done that ourselves, hog chains and cavels.

Q. You don't know what the hog chains cost?

A. No, I don't.

Q. You don't know what the cavels cost?

A. No, cavels run about \$10. apiece for cavels; that is what they generally run.

Q. How many cavels were there?

A. There were ten cavels.

Q. And you can't tell me what the hog chains actually did cost?

A. No, I can't because the blacksmithing on the hog chains always goes a whole lot more than the hog chains.

Q. What kind of metal were they of—steel or iron?

A. I don't know whether steel or iron.

Q. And the cost of the boiler includes the entire boiler, does it?

A. No, not all the boiler. That is the naked boiler. Doesn't include boiler front, or grate bars, or saddle

for the boiler, or anything like that; just the naked boiler.

Q. You don't know what the boiler front costs?

A. Usually costs about \$50.

Q. And the saddles?

A. I don't know what they would cost; perhaps \$50.

Q. And the grate bars

A. The grate bars? I don't know how much the bed plates and grate bars, I don't know how much they would cost.

Q. They were all taken out when you put oil on her.

A. No, sir.

Q. They remain, do they?

A. Yes, oil boats have grate bars in, anyhow.

Q. Was there anything but those three items not included in the cost of the boiler?

A. No, not outside of hauling and installing.

Q. And the cost of the machinery; that includes the machinery except what parts? The pumps, you said.

A. All the pumps, and all the piping and valves.

Q. Pumps, piping and valves?

A. And installing.

Q. And the woodwork includes all the woodwork?

A. Yes, all the wood.

Q. The whole thing, the woodwork?

A. Yes, sir.

Mr. ERSKINE WOOD: Does that include the

hull?

A. Yes; at that time, they were working nine hours a day and paying carpenters \$3.50 a day.

Redirect Examination

Questions by Mr. C. E. S. WOOD:

What would be the cost to have done that in 1911, when she was sunk?

A. It is estimated right there on that, the difference.

Mr. MINOR: If you don't know, I object as incompetent.

A. \$50,057.78, as near as I can tell.

Q. Do you know what it would have cost to do it in 1911?

A. No, we don't know. We know the difference in machinery and woodwork and boiler, those three items.

Q. What are those differences?

Mr. MINOR: I object to all this.

Q. Just give the same items you have been giving to Mr. Minor.

A. Here is woodwork cost \$9041.19, when the Henderson was built, and when we built the Henderson this time, the woodwork cost \$15,500. That is the difference there. The cost of the machinery was \$5559.60, and the Portland Iron Works that built it, said that they would not build the same thing again for less than \$9500. The cost of the boiler was \$4234.-85.

Q. That is the naked shell?

A. That is the naked shell, and we paid for the Dixon's boiler, a much smaller boiler, \$5500. Just installed it about a month ago. The Dixon's boiler is a 60 inch shell, and hers is 72-inch.

Cross Examination

Questions by Mr. GUTHRIE:

Just one question. The salvage operations were conducted right off the shore of Tenas Illihee Island, weren't they?

A. Right off what?

A. Right off the shore there from Tenas Illihee Island?

A. Yes, sir.

Q. That is a sandy beach along in there a sand island, isn't it?

A. Yes, sandy bottom.

Q. The bottom is not hard or rocky, or any great obstacles or snags, or anything like that?

A. No, sir.

Witness excused.

G. KIRKHAM SMITH A witness called by the Libellant, being first duly sworn, testified as follows.

Direct Examination

Questions by Mr. ERSKINE WOOD:

Mr. Smith, you are the agent in this port for the Firemens Fund Insurance Company, are you?

A. Yes, sir.

Q. And you occupied that position in 1911?

A. In 1911, I was working for the agent, but I was not directly the agent myself.

Q. I hand you this report, which has already been introduced for further identification, and ask you to look at it and the signatures, and examine it. This is Libellant's Exhibit 32 for identification, a report signed by Albert Crowe, William B. Honeyman, and Peter Carstens, and will ask you to state how Captain Crowe and Mr. Honeyman came to make the report, and who they were acting for.

A. The report was made at my request, for the Insurance Company.

Q. The Firemens Fund?

A. The Firemens Fund Insurance Company. Captain Crowe was the marine surveyor for San Francisco Underwriters, and on any loss, particularly hull losses, hull damage, the insurance company demands a report from their surveyor, and I asked to have this report made myself, and asked Mr. Honeyman to work in conjunction with Captain Crowe, because Captain Crowe was not an authority, nor did he pretend to be on machinery, and Honeyman was, and we had him make the report in a way as an employe, perhaps of Crowe's, to finish out certain details.

Q. Your company was carrying insurance on the Samson, was it not?

A. Yes, sir.

Q. And of course we all understand the principal damage in this collision was to the Henderson. I

will ask you to explain why it was your company, as the insurers of the Samson were interested in the damage done to the Henderson.

A. Well, over and above any damage that might come under the terms of the policy for fire, stranding, etc., there is what is known as the running down clause, or collision clause, as a result of which the Insurance Company holds themselves liable for three-quarters of any sum or sums that the vessel insured may owe to another vessel with which she has had collision. I don't know that I have made that just plain, but the idea is, if the fault is shown to be in our vessel insured, then we pay three-quarters of any sum they owe.

Mr. ERSKINE WOOD: We will now introduce the report.

Mr. MINOR: I still insist upon my objection as irrelevant and incompetent, and particularly the parties by whom the report was signed have not been sworn to testify regarding the report, nor have they been examined in regard to the same, and furthermore, because it does appear from the evidence that the items in this report are items given to the parties by whom the report is signed, by Captain Shaver, and therefore the report itself is in part hearsay and incompetent.

Marked "Libellant's Exhibit 32."

LIBELLANT'S EXHIBIT 32.

Report of survey on the wooden stern wheel tow

boat, "M. F. Henderson."

Dimensions:- Length 158'7". Breadth 31'. Depth 7'5".

Gross tons 534. Built at Portland, Oregon, in 1901.

On July 22nd, 1911, while employed in towing the Standard Oil Co's barge No. 93 from Astoria, toward Portland, near Bugby's Hole, Columbia River, she met and collided with the Tug "Samson", towing three barges loaded with rock, each carrying approximately 1000 tons, the result of which was that two of the rock barges were slightly damaged and the "M. F. Henderson" so badly damaged that she sunk.

On July 22nd, barges "Omaha" and "Ocean," also the Robt. Wakefield derrick scow with a wrecking outfit were taken to the wreck by the tugs "Cascades", "Wauna" and Launch "Echo", and floating operations immediately begun. With the assistance of the tugs "Shaver", "No Wonder" and "Sarah Dixon" on July 24th and 25th, the sunken steamer was turned deck upward. Barges were moored alongside, chains passed under her, and floating operations carried to a successful result and vessel was towed to Portland, arriving August 4th. Was partly hauled out on the Marine Ways of the Portland S. B. Co. on that date and fully hauled out on the 7th.

August 17th. Examination of the vessel was made by the undersigned to ascertain the extent of the damage, and recommend procedure regarding same.

Report on Accident Damage.

We found the vessel with the deck house completely

gone, and only some wreckage of piping remaining on deck. The hull was badly damaged on the port side forward, consisting at that point of the guard rail, planking, side kelson, clamp strakes, and frames extending to the turn of the bilge and deck, for 35 feet in length, and about 5 feet in width, carried clear away. The guard rail from that point to the stern was also gone, the beams showing to have been broken downward, and the cylinder timber damaged. The deck in other places was strained and broken by the hog posts when they carried away. 15 floor timbers under the engine room are broken, and the main and side kelsons badly strained. The bottom planking was scored in places by the wreckage. In the hold the oil tanks and boiler had moved and all pipe connections were broken and wreckage of piping was strewn about. A general demolition of wiring and small fittings, together with almost total loss of all equipment and stores constituted the extent of the damage.

Report on General Condition of Hull.

We found the floor timbers under the boiler and fire room, extending 40 feet of keel length pretty badly rotted. Other spots under kelsons were showing softness. The decks at the places of contact with the house sides and partitions were also showing some decay. The bottom planking is also considerably worn. Other parts of the hull are in good state of preservation for her age. Considering the whole we are of the opinion that it is not practical to repair the

hull, as it would approximate the cost of new construction. We therefore advise building a new one and transferring the machinery from the old, adding such parts that are lost, and repairing what is damaged into good working condition, of equal value as before the collision.

ESTIMATED VALUE OF A NEW BOAT SIMILAR TO THE "M. F. HENDERSON"
AND DEPRECIATION.

Cost of hull	\$ 9,000.00	\$ 5,000.00
Cost of house	8,000.00	1,000.00
Cost of firebox boilers)		
72"x26')		
Cost of 2 engines 18"x 84")....	22,000.00	4,400.00
)		20%
Cost of pumps, piping & fitting)		
Installation of same	3,500.00	
Cost of oil burning plant....	2,250.00	
		)10%. 340.00
Cost of electric light plant..	1,145.00	
Boiler cleaner	150.00)
2 Extra capstans at \$120....	240.00)
Towing engine	800.00)
Donkey boiler \$350; winches \$220	570.00)
Ballast tank	250.00)
Log towing equipment	500.00)

20 Life preservers (Tulle)	20.00)
250 feet 1½" hose coupling and pipes	80.00)
18 buckets	9.00)
4 barrels	4.00) 1,191.00
6 axes \$6; peevees & cap- stan bars \$10	16.00)
2 skiffs 16 feet	50.00)
1 life boat 20 feet & cover....	200.00)
Furniture of 8 rooms and cabins)	932.00)
Galley equipment as per list)	
Deck lines	475.00)
2 trucks	14.00)
)
4 fire extinguishers	\$ 50.00)

\$50,235.00

Depreciation	11,931.00
--------------------	-----------

Value of "M. F. Hender- son time of collision....	\$38,304.00
Present value of engines and boilers	13,600.00
Value of extra equipment saved	3,235.00
Net present value	16,835.00
Loss on boat	21,469.00
Statement for salving ex-	

penses	8,414.84
Tools and supplies lost as per list	418.71
Provisions lost as per list....	83.99
150 days loss of time boat while rebuilding at \$30....	4,500.00
	\$34,886.54

Portland, Oregon, August 19th, 1911.

Albert Crowe,

Surveyor Board of Marine Underwriters, S. F.

Wm. B. Honeyman,

Engineer surveyor.

I wish to state that I have examined the costs of hull, machinery and equipment, with depreciation as applied and consider the statement as near correct as can be arrived at.

Peter Carstens, Master Shipbuilder.

VALUE OF SALVAGE FROM WRECK OF
STEAMER "M. F. HENDERSON."

3 Capstans	\$240.00
1 set hog chains	350.00
4 main and 2 monkey rudders with tellers and blocks	450.00
10 mooring cavils	100.00
6 mooring chocks	24.00
Stem iron	25.00
Steering wheel	20.00
1 deck pump	60.00
2 anchors and chains	125.00

oil burning plant	1400.00
Electric light plant	350.00
Equipment	91.00
Hull after stripped equal to launching charge.	
Engines, boilers, pumps and piping.....	13,600.00

	\$16,835.00

SUPPLIES ON BOARD STMR. "HENDERSON"

JULY 21st, 1911.

(Estimate)

 $\frac{1}{2}$ case each of:—

Peaches	\$ 2.25
Cherries	1.75
Plums	1.20
Tomatoes .....	.85
Peas	1.15
Corn	1.00
Beans	1.00
Logan berries	1.90
Pears	2.00
Oysters	1.75
Clams	2.20
Strawberries	2.50
Raspberries	2.00
Apricots	1.75
Pumpkin .....	.75
Carnation Milk	1.80
Apples	1.25
8 lbs. hominy .....	.32
3 lbs. chocolate .....	.90

The Steamer Samson

2005

5 lbs. Coffee	1.00
3 lbs. S. L. Tea .....	.90
10 lbs. Cornmeal .....	.30
1 qt. salad oil .....	.35
4 cans Dutch cleanser .....	.32
2 Bon Ami .....	.15
3 Sapolio .....	.18
5 lbs. rolled oats .....	.20
$\frac{1}{2}$ lb. cinnamon .....	.40
$\frac{3}{4}$ lb. pepper .....	.30
$\frac{1}{2}$ lb. cloves .....	.40
$\frac{1}{4}$ lb. mace .....	.20
1 $\frac{1}{2}$ sack flour	1.90
1 cs eggs	7.50
2 sacks potatoes	3.50
20 lbs. navy beans	1.10
40 lbs. salt .....	.30
1 keg pickles	1.65
3 gal. syrup .....	.66
1 Y A Cheese	1.30
1 box crackers	1.10
8 lbs. lard .....	.90
	\$52.93
Forward	\$ 52.93
6 pkg raisins .....	.48
3 pkg currants .....	.33
3 pkg cornstarch .....	.18
3 pkg soda .....	.15
12 dessicated cod	1.08
25 lbs. onions .....	.85

1 gal vinegar and jug .....	.40
12 lbs. rice .....	.60
15 lbs. Lima beans .....	.97
15 lbs. Bayou beans .....	.75
1 carton matches .....	.50
8 lbs. powdered sugar .....	.50
$\frac{1}{2}$ box macaroni .....	.20
$\frac{1}{2}$ box vermicelli .....	.35
2 bottle prepared mustard .....	.20
2 bottle catsup .....	.40
2 bottles Worcestershire .....	.88
Fresh vegetables	2.50
Fresh meat, 25 lbs.	3.13
17 lbs. ham	2.55
15 lbs. bacon	2.60
3 lbs. butter .....	.84
15 lbs. Golden C sugar .....	.75
100 lbs. sugar	5.25
2 gal. milk .....	.50
4 pkg. Gold dust .....	.30
12 Ivory soap .....	.48
12 Laundry soap .....	.45
6 Rainier soap .....	.42
5 lbs. baking powder	1.75
3 pkg corn flakes .....	.35
3 pkg Force .....	.25
1 pkg wheat hearts .....	.22
<hr/>	
	\$83.99

RAISING STEAMER "HENDERSON."

July 22nd	Str. "Shaver" trip to wreck	17½ hrs.	@ \$8	\$ 140.00
	Str. "Shaver" moving barge			5.00
July 25th	Str. "Shaver" working on wreck	25½ hrs.	@ \$8	204.00
July 24th	Str. "No Wonder" working on wreck	10 hrs.	@ \$8	80.00
July 25th	Str. "No Wonder" working on wreck	24 hrs.	@ \$8	192.00
July 24th	Str. "Sarah Dixon" working on wreck	9½ hrs.	@ \$8	76.00
July 25th	Str. "Sarah Dixon" working on wreck	23¾ hrs.	@ \$8	190.00
30th	Str. "Shaver" working on wreck	3 hrs.	@ \$8	24.00
Aug. 4th	Str. "Shaver" working on wreck	5¼ hrs.	@ \$8	42.00
	Str. "Echo" working on wreck	14 days	@ \$30	420.00
	Str. "Wauna" working on wreck	15 days	@ \$125	1875.00
	Str. "Cascades" working on wreck	15 days	@ \$150	2250.00
C. W. Doffelmeyer & 4 men,	street car fare Clifton			10.20
Express				1.00
D. Shaver, fare from Clifton				1.95
Ore. Trans. Co.				7.50
Northern Express Co.				.90

O. R. & N. Co. freight	5.00
Launch hire C. W. Doffelmeyer....	1.25
Northern Express Co. ....	.40
Telephone Westport Lmbr. Co....	.90
J. Olesen fare Clifton to Portland	1.95
F. R. Stinson, fare Clifton to Port- land	1.95
H. F. Stayton, fare Mayger to Portland	1.40
Aug. 6 J. W. Shaver wages	96.75
L. Shaver wages	96.75
E. A. Tabor wages	36.12
J. C. Wendell wages	55.65
E. S. Harlow wages	55.65
Board 9 men July 23rd to Aug. 5th	121.00
Aug. 7 B. Trenkman, blacksmithing.....	55.00
Ice Delivery Co.	4.60
The Beebe Co.	14.24
Eastern & Western Lmbr. Co.	386.00
L. E. Wood	3.00
F. R. Stinson, telephone	2.10
Ore. Trans. Co.	6.50
Honeyman Hdw. Co.	86.13
Diver	245.00
Ore. Round Lumber Co. barges....	460.00
Ore. Trans. Co.	7.00
Robt. Wakefield Co. derrick barge and men	255.50
Launch hire, phone, ex. etc.	14.45
C. W. Doffelmeyer, crew, etc.....	531.00

O. W. R. & N. Co., jacks, chains, etc.	100.00
Portland Shipbuilding Co., haul- ing out and blocking up	250.00
	\$8414.84

STEAMER "HENDERSON" EQUIPMENT.

4 7" stern lines	\$ 70.60
4 $\frac{7}{8}$ Galv. pennants 65"	33.60
2 7" head lines 159'	39.60
2 $\frac{7}{8}$ galv. pennants 65'	16.80
40 rope swifters	44.60
3 4" chain lines	10.80
12' 1" steam hose	30.04
240' tie up line	5.00
150' 1" line	4.50
3 breast lines	12.60
150' 1" galv. line	22.70
3 rope fenders	12.00
4 heaving lines	5.00
100' 1" line	1.35
75' 3/8 galv line	3.30
75' 1" galv line	15.22
100' $\frac{7}{8}$ galv line	11.30
450' 3/16 running line	26.80
75' 3/8 galv. line	7.20
180' 3/16 flexible line	7.50
1250' 2 $\frac{1}{2}$ cir. tow line damaged	65.94
2 aft tiller lines	11.90
2 fwd tiller lines	18.00

2 extra tiller lines	11.90
1 extra stern line.....	7.20
6 rope racks	20.00
75 incandescent lights 16 cp.	13.50
10 incandescent lights 32 cp.	2.40
18 fire buckets	9.00
1 met life boat 20'	180.00
1 life boat cover	10.50
2 pr oars	6.00
2 pr oar locks .....	.70
3 fire axes	6.00
8 axes	6.00
6 peavies	8.40
8 capstan bars	1.50
Damage to capstans	10.00
2 trucks	24.00
2 durable headlines	74.00
150' $\frac{1}{2}$ " line	9.00
19 new swifters complete	85.50
9 pike poles	11.25
4 fire extinguishers	50.00
3 water bbls.	10.50
1 oil bbl.	1.00
18 raft lights & extra globes	20.00
10 tubular lanterns	7.50
extra globes	1.50
2 fire room curtains	2.00
2 galley curtains	2.00
1 foot plank	4.50
1 jumper	5.00

The Steamer Samson

2011

3 deck brooms	1.50
4 boat blocks and falls	12.00
100' 1½" hose	32.50
100' Fire hose	45.00
1 arc light	17.50
1 search light	172.00
4 fire nozzles	3.40
4 fire hose couplings	2.00

	\$1432.50
Forward	\$1432.50
1 donkey boiler	350.00
1 cross cut saw	3.00
600' ¾" cable	63.00
1 bbl. D Cylinder oil	22.50
5 gal. dynamo oil	2.00
25 lbs. cup grease	2.25
1 chair	2.50
1 sack rags	5.00
12 wheel buckets	12.00
8 wheel arms	4.00
17 wheel battens	4.25
10 lb. 1/8 rainbow pkg	6.50
8 lb. 1/16 rainbow pkg	5.20
6 lb. ¾ Honest John	4.80
10 lb. hydraulic package	15.00
6 lb. Helois pkg	7.50
8 lbs. Flax	4.00
1 spool palmetto	1.00
1 pr. 12" calipers .....	.50

1 pr. 8" calipers .....	.35
1 pr. 12" inside dividers .....	.60
1 pr. 12" outside dividers .....	.35
1 set bolt taps and dies	12.50
2 sets pipe taps & dies	26.50
1 21" monkey wrench	2.50
1 18" monkey wrench	2.00
2 14" monkey wrenches	3.30
2 12" monkey wrenches	2.00
1 8" monkey wrench .....	.70
1 6" monkey wrench .....	.60
2 24" Stillson wrenches	4.80
1 18" Stillson wrench	1.65
2 12" Stillson wrenches	2.50
1 6" Stillson wrench .....	.80
2 pr. pipe cutters	5.60
3 machine hammers	2.55
2 sledges	2.00
1 forge	14.00
1 anvil	8.00
3 pr. tongs	1.50
2 cold cuts	1.50
1 pr. chain tongs	4.75
1 brace	2.00
1 set bitts	4.00
1 drill press	12.00
1 set drills	5.00
2 gals. white lead	3.50
2 gals. stack paint	1.80
25 lbs. dry red paint	2.00

1 dynamo belt	23.08
8 cold chisels	2.00
2 R. N. Chisels .....	.30
1 doz. gauge glasses	1.08
4 $\frac{1}{2}$ wire springs.....	9.00

	\$2114.31

STR. "HENDERSON" GALLEY, DINING
ROOM, CABIN AND MISCELLANEOUS
EQUIPMENT.

5 milk cans	\$ 6.25
14 mush bowls	1.15
12 nappies .....	.45
30 plates	2.65
14 pie plates .....	.82
15 saucers	1.00
13 cups .....	.80
12 water glasses .....	.84
11 veg. ovals	2.50
9 platters	2.40
3 large veg.	1.00
3 hanging lamps	18.00
2 galley lamps	1.80
2 dining tables	30.00
12 chairs	18.00
4 pitchers	3.00
6 cake tins .....	.30
6 granite pie pans	1.05
1 range	54.00
5 skillets	3.00

10 stew kettles (granite)	7.50
1 granite coffee pot	1.10
1 granite tea pot .....	.90
1 tea kettle	1.00
1 egg whip .....	.15
2 kitchen knives .....	.20
2 kitchen forks .....	.45
3 butcher knives	4.00
2 paring knives .....	.30
1 meat grinder	1.50
1 ladle .....	.25
1 potato masher .....	.15
1 skimmer .....	.10
3 kitchen spoons .....	.30
3 flat irons	1.45
2 cabin brooms	1.00
1 mop .....	.50
1 refrigerator .....	.75
1 screen cupboard	10.00
1 grater .....	.15
5 granite pudding pans	1.25
6 drip pans	3.90
1 bread pan .....	.65
1 dish pan	1.00
1 egg beater .....	.35
	\$262.16
Forward	\$262.16
Frames	\$ 10.00
9 rugs	11.25

The Steamer Samson

2015

3 Deck buckets .....	.90
2 gem pans .....	.50
1 wringer	4.00
1 wash board .....	.50
1 collander .....	.25
2 long cake tins .....	.40
6 egg pans .....	.60
1 toaster .....	.40
1 rice boiler	1.20
1 steak hammer .....	.30
1 alarm clock	1.50
8 $\frac{3}{4}$ hair mattresses	108.00
8 $\frac{3}{4}$ springs	18.00
7 $\frac{1}{2}$ springs	15.75
7 $\frac{1}{2}$ hair mattresses	84.00
1 bedstead	8.50
1 large hair mattresses	15.00
9 bracket lamps	4.50
10 pillows	12.50
11 pair blankets	49.50
32 sheets	16.00
20 slips	2.50
17 spreads	20.25
21 roller towels	4.75
8 stools	4.00
9 stands	22.50
Bathtub & fittings	30.00
Washbowl & fittings	19.50
2 Toilets	40.00
20 life preservers	19.00

1 pilot house clock	4.50
1 barometer	7.50
2 pilot house chairs	11.00
1 pilot house radiator	7.50
1 Cabin radiator	45.00
1 large spring	2.50
48 window & door curtains	24.00
pilot house curtains	6.00
galley piping	11.54
Speaking tubes	24.10

	\$931.85

Mr. ERSKINE WOOD: With the exception of the Peterson and Crossen testimony under the stipulation, we are through.

(Peterson and Crossen testimony appears at proper place in the record.)

Libellant rests.

Claimant rests.

And afterwards, to wit, on the 23 day of November, 1912, there was duly filed in said Court, a Deposition, in words and figures as follows, to wit:

[Libellant's Exhibit 3—Deposition of Wm. Kalberg.]

(Title.)

Be It Remembered that pursuant to the stipulation hereto attached personally appeared before me, Alva W. Person, a Notary Public in and for the State of Oregon, duly appointed and commissioned to administer oaths, etc., at the office of Snow & McCam-

ant, Room 611 in the Electric Building, in the City of Portland, Oregon, on Thursday, November 21st, 1912, at three o'clock P. M., WILLIAM KALBERG, a witness produced on behalf of Libellant and Respondent in personam in the above entitled cause now pending in the District Court of the United States for the District of Oregon, who being first by me duly sworn was then and there examined and cross examined and testified as follows:

Direct Examination by Mr. Erskine Wood:

Q. Mr. Kalberg, what is your business?

A. I am a sailor.

Q. How long have you been a sailor?

A. Thirteen years.

Q. What kind of sailing?

A. I have followed the sailing ships the most of that time.

Q. In what parts?

A. On the coastwise trade for about ten years. That includes the Hawaiian Islands and from Mexico to Alaska.

Q. Are you accustomed to the steering of vessels?

A. Yes.

Q. Were you on the Barge 93 at the time of the collision, July, 1911?

A. Yes, sir.

Q. With the Steamer Samson?

A. Yes.

Q. Where were you on the barge?

A. I was in the wheelhouse at the time of the accident.

Q. On what duty?

A. As quartermaster.

Q. What time did you go on watch?

A. Twelve o'clock that night.

Q. Where is the wheel house?

A. On the forecastle head.

Q. How far from the stem? I don't mean exactly.

A. I don't know really how many feet it would be. It must be somewhere around thirty-five feet, or something like that, sir; but I ain't sure of this.

Q. All right; don't say anything you aren't sure of. Where was Captain Sullivan that night?

A. He was in front of the wheel house.

Q. On the forecastle head?

A. On the forecastle head, sir.

Q. How was the ship guided that night, under whose orders?

A. The pilot's orders.

Q. And what was done?

A. The pilot got charge of the vessel as soon as she strikes Astoria.

Q. And he gave the orders to you at the wheel?

A. Yes, sir; he gives me the orders.

Q. How did the ship steer that night coming up the river?

A. Steering all right.

Q. How long had you been on her?

A. Somewhere around about a month, about a

month.

Q. About a month?

A. Yes, sir.

Q. Did you ever have any trouble steering her?

A. Never.

Q. What orders did you get from Sullivan that night before the collision as to steering the vessel?

A. Well, of course the river turns. Any man gets his orders and he steers accordingly, after how he says it, you know. Now if he wants you to steer to port you starboard the helm; if he wants you to steer to starboard you port the helm, you know. Some places it is dark; I can't see, you know; I follow after his voice.

Q. How do you know that you have the helm the way he wants it?

A. Oh, that is easy enough. I see that. There is an indicating needle in front, you know, and that shows about how the helm stands, you know. That helm swings. Then there is the range lights I steer after, too. He points to a certain light: "Just keep to the starboard bow, or straight ahead."

Q. I don't mean all the time coming up the river, but I mean just before the collision what orders did you get as regards the wheel?

A. What orders did I get? Well, just prior to the collision—you see, it happened a year and a half ago.

Q. I know it.

A. I aint thinking of them things much. Of

course, that don't interest me a whole lot, to tell the truth.

Q. Well, did you hear any whistles given? Do you remember that?

A. Yes. I heard the barge blowed one whistle first.

Q. Well, did you get any orders at that time, or near that time?

A. Well—huph, I can't think of it, whether it was exactly at the time that the whistle blowed that I got the order or if it was after the whistle blowed. I don't know what that is. But I know I got an order to port the helm a bit, you know, so I put her over a little, you know.

Q. Yes.

A. Well, then, to my best recollection, why he blowed another whistle. Then a thing I do remember, the Samson answered.

Q. What?

A. The Samson answered his second whistle that he blowed a little after he blowed his first whistle.

Q. Now, as I understand you, you ported your helm a little somewhere near the time of the first whistle?

A. Well, I could not specify at the time, or when it was.

Q. No.

A. But it was somewhere around that time, anyway.

Q. Well, then, what other orders did you get?

A. I can't remember.

Q. Regarding the wheel?

A. Well, then he blowed the second whistle, why, I guess he saw there was going to be trouble there, and he says, "Hard a-port" then; so the towboat with these barges was still bearing right on us then. Of course, then he asked me again, "Is it hard a-port?" And I says, "Hard a-port all the time"; and she was paying off., you know.

Q. How quickly did you obey Sullivan's orders as you got them?

A. Instantly.

Q. Now you said that you answered him that you had her hard a-port and she was paying off?

A. Yes.

Q. Could you see the shore at that time?

A. Yes, the shore.

Q. Which shore?

A. The starboard shore, you know. I mean the righthand shore going up the river.

Q. Which way were you headed?

A. Heading up the river at that time.

Q. Which shore were you headed toward?

A. Headed over on the starboard shore, on the right hand shore, over that big bluff, like. I could see looming ahead the bluff; and that bluff, there is no lights on that; it is all dark, but that is so high up so you could see it, you know, even in the darkness. That was, I could see it, anyhow.

Q. Was that ahead of you?

A. Yes, it was ahead on the right hand side, like, you know; and as I got—

Q. (Interrupting) On the right hand side of the river going up? Is that what you mean?

A. On the righthand side, yes.

Q. How close were you to that bluff?

A. I can't judge the distance. We were not very far; I know that.

Q. What orders did you get after the collision?

A. I got no orders, sir.

Q. What orders were given?

A. After the collision?

Q. Did you hear any orders given?

A. Oh, yes. Captain Sullivan says to drop the anchors instantly, and that was what was done, too.

Q. How do you know?

A. I could hear it. That is why.

Q. How long after the collision were the anchors let go?

A. Well, the time was so short, you know, they may not have been a half minute and they may have been a minute; but I am satisfied it was no more.

Q. How were they let go? Do you know whom Sullivan ordered to let them go?

A. Yes. The boatswain on the forecastle head to let them go.

Q. Where was he?

A. He was on the forecastle head at the time of the collision, to the best of my knowledge. There is where he was supposed to be, anyway.

Q. How far were you from where the anchors were let go?

A. The anchors is underneath.

Q. How far from you?

A. Well, that is not very far. Well about, suppose here is the wheel house up here, like (witness illustrating); see; right over here on that ceiling, standing up there, like. Well, here is the anchors over there (indicating).

Q. Well, about how many feet?

A. Well, how many feet do you think it is here?

Q. I can't tell you. I am not allowed to.

A. Well, neither am I. So that's one on you.

Q. Well, I would like you to say about how far, just about how far it is in feet. You see, it has to go in this record.

A. Well.

Q. Well, could you hear the anchors go out plainly?

A. Yes. You can't make a mistake about that. You can always hear them rattling through the horse pipe with the chains. The anchor plunges in the water.

Q. Did you hear the anchor chains going out through the horse pipe?

A. Yes.

Q. How did the ship bring up on the anchors, hard or easy?

A. I don't know. I didn't hear anything.

Q. Well, would you know if there was a sharp

jerk, or not?

A. No. I didn't take notice to it, and I didn't hear anything other than as I told you.

Q. How far were you from the beach at the time of the collision?

A. I don't know.

Q. At the time you anchored, then, the next morning?

A. Well, we were not very far. But I can't judge the distance from shore, but I could see people on the shore and even small chickens running about the shore; so you can imagine I must not be very far.

Q. Were you in any fear about going ashore that night, about running ashore?

A. I thought sure we was going ashore.

Q. Why?

A. I was bearing right in on the bank then, right in on the beach.

Q. Well, if the anchors had not been let go would you have gone ashore, in your opinion?

A. In my opinion, yes; that would be allright.

Cross Examination by Mr. MINOR:

Q. Mr. Kalberg, how many signals were given that night by the barge?

A. How many signals I was given?

Q. How many signals were given by the barge that night?

A. Well, I don't comprehend what you mean there.

Q. Well, how many whistles were blown?

A. At one time, or at—

Q. (Interrupting) Well, at one time how many were blown?

A. He blowed one whistle first.

Q. One whistle first?

A. Yes.

Q. Then did he blow any more whistles?

A. And then he blowed, after while he blowed another whistle, and then the Samson answered us, and that is all the whistles that ever I know of. I don't know anything more about it.

Q. So you heard one whistle blown first?

A. Yes.

Q. You didn't hear the Samson answer it?

A. No.

Q. Then you heard one whistle blown afterward?

A. The whistle blowed?

Q. Afterward?

A. That is the one he blowed again on the barge.

Q. And that whistle you heard the Samson answer?

A. Then that whistle the Samson answered.

Q. How did she answer it?

A. I don't know if there was two whistles or one whistle, but I know that they made a noise, anyhow.

Q. You don't know whether she answered it with one whistle or with two whistles?

A. No, I don't know that.

Q. But there was a number of whistles?

A. No, I don't know anything about the number

of whistles at all. I only know that they answered. That is all I know.

Q. Now did you see the Samson before the first whistle was blown?

A. I saw the lights of something coming down. That is all I saw, you know. I didn't know what it was, you see; it as dark.

Q. I know. You saw that before the first whistle was blown?

A. Yes, sir.

Q. How far was she away when you first saw her?

A. Well, that is pretty hard to state. I could not say anything definitely about that.

Q. Well, a mile?

A. I don't know, Mister.

Q. When you first saw the Samson could you see the bluff?

Mr. C. E. S. WOOD: You understand what the bluff is?

Mr. MINOR: Yes. He has testified about the bluff already.

WITNESS: Oh, yes; I can understand this as well as anybody.

Mr. MINOR: He testified about the bluff before you came in.

Q. When you first saw the Samson did you see the bluff?

A. I must have seen it, yes. I am positive of it, too. Put that down.

'Q. You saw the bluff?

A. Yes, sir.

Q. Now was any whistle blown when you first saw the Samson?

A. I can't recollect that, sir.

Q. You don't recollect that either boat sounded any whistle at that time?

A. No. They was pretty far apart at that time. I don't suppose there was any need of blowing any whistle at that particular time.

Q. But you did not hear any whistle at that particular time, that you recollect?

A. Sir?

Q. You don't recollect hearing any whistle blown at that time by either vessel?

A. At the first time?

Q. When you first saw the Samson?

A. At the first time when I saw those lights up here, you mean?

Q. Yes.

A. Well, no; I don't know exactly.

Q. But you don't recall any whistle being sounded at that time?

A. No.

Q. Now when you first saw the Samson, then you could see the bluff; was the Samson or the bluff the nearest?

A. Well, that is pretty hard to judge in that darkness that prevailed around there, you see, his lights were so bright, but so far as that is concerned, I can't

tell nothing about that really. That is hard to judge the distance in a dark night, you know, with them lights.

Q. You could not see, then, really whether the Samson was nearer to you or the bluff was nearer to you, when you first saw the Samson?

A. No.

Q. Now how long do you think it was after you saw the Samson before the first whistle was sounded from the barge?

A. I don't know, sir.

Q. Did you see the Samson at the time the first whistle was sounded?

A. Yes; I saw the lights, but I never saw the vessel.

Q. You saw the lights?

A. I saw the lights.

Q. How far was she away from you at that time, do you think?

A. I could not judge the distance.

Q. Was she as near to you, or nearer to you, than the bluff, at that time?

A. I don't know. You see, I didn't keep track of that, so I could not tell you.

Q. Now I understand when the first whistle was sounded you didn't get any orders from the pilot?

A. Yes. Somewheres after the first whistle was sounded, or in the neighborhood of that, he told me to port the helm a little. Yes, I remember that.

Q. The order then was to port the helm a little?

A. Yes.

Q. You obeyed that order?

A. Yes, sir.

Q. Now, did you get any other order from the pilot after that?

A. After that?

Q. Yes.

A. No, not until he had blowed this next whistle.

Q. Not until he had blowed the second whistle?

A. Yes. That is to the best of my recollection.

Q. Then after he blew the second whistle what order did you get?

A. Hard a-port.

Q. Could you tell how far you were from the lights of that Samson at the time that the second whistle was sounded?

A. No, I don't know exactly, but we could not have been such an awful distance away, but I could not judge the distance then.

Q. Now, did you see the bluff at that time?

A. Yes; oh, yes, very plainly.

Q. Which was nearest to you at that time, the Samson or the bluff?

A. Well, that is a pretty hard thing to judge that, you know. I can't go that one.

Q. You could not tell which was nearest?

A. No.

Q. The Samson wasn't between you and the bluff, though?

A. Oh, no. No, no; that don't go on me at all,

you know. I know that.

Q. That is what I say. The Samson wasn't between you and the bluff at the time the second whistle was blown?

A. No, he wasn't inside of us. He was on the left hand side of us, going up on the right.

Q. On the left hand side. How many lights did you see on that night at that time?

A. The lights? Well, it was awfully confused, you know. There might have been four or five, and there might have been more lights, but the lights are awful bright you know; I could not judge how many there could have been.

Q. Did you see a white light?

A. Yes, I saw a white light.

Q. You don't know how many?

A. I don't know how many, sir.

Q. Did you see a red light?

A. I can't think of that, no, sir. I have forgot all about that.

Q. Did you see a green light?

A. No, I don't believe I took notice of that.

Q. You remember seeing the white lights?

A. Yes.

Q. But don't remember whether you saw the red or green light?

A. No; it is so long since, you know, and I never thought of it any more; it kind of slipped my memory.

Q. Did you observe the course of the Samson after

the first whistle was blown?

A. Yes, I did.

Q. Did she change her course at all after the first whistle was blown?

A. No, it didn't seem like he changed it. So I said to myself, "By Golly, he is going to come right down on top of us."

Q. That is the way it appeared to you?

A. Yes.

Q. And when the second whistle was blown do you recollect you could see the lights of the Samson then?

A. Well, no, I can't recollect. I saw lots of lights, Mister, but that is all I saw. I can't think of it, you know; I took no notice.

Q. You don't remember seeing either the red light or the green light of the Samson that night at all?

A. No.

Q. And the first time that the pilot gave you an order hard a-port was just at or after the second whistle was blown?

A. Yes; just about that time, but I can't specify if it was after the second whistle or just at the time of that second whistle. It might have been a little after.

Q. I say it was either just at the time of the second whistle or it was just after the second whistle?

A. Yes; or just a little after, you see.

Q. What is the name of the boatswain?

A. I think his name is Matson, if I ain't mistaken.

Mr. ERSKINE WOOD: It is Martinson.

Mr. MINOR: He is the man we had here before, is he?

Mr. ERSKINE WOOD: Yes.

Q. Was he on the deck all the time?

A. I don't know, sir. It was kind of dark, you know, and I could not tell, you know.

Q. You didn't see him come on deck that night?

A. Yes, I saw him. He was on deck. He was on the forecastle at eight bells when I come on the forecastle, at eight bells at twelve o'clock.

Mr. MINOR: Did he testify he came up after the second whistle sounded?

Mr. ERSKINE WOOD: No.

Mr. MINOR: I think he did.

Mr. ERSKINE WOOD: No, I think not.

Q. Who sounded the whistles on the barge?

A. The pilot does that; that is Captain Sullivan.

Q. Captain Sullivan sounded it?

A. Yes.

Q. Did you see him when he did it?

A. No, I did not see it, but I heard it.

Q. But you could not tell whether he did it or whether somebody else did it, could you?

A. No, not to my recollection.

Redirect Examination by Mr. ERSKINE WOOD:

Q. You told Mr. Minor that the first order you got was to port the helm a little.

A. Well, some. That meant some.

Q. I would like to ask you whether it was enough to make the vessel pay off immediately, or not?

A. Oh, yes; that was enough. It went to work and made the vessel swing slowly, you know. That is all that is needed. If I shove her hard a-port she would go around fast, you know.

Q. Was it enough to make the vessel obey the helm?

A. Why, sure. Oh, yes; that is my business. I look out for that.

Q. You also said that you didn't notice particularly the lights of the Samson?

A. No, I did not.

Q. I will ask you when you are steering a barge like that under the orders of a pilot, who gives you the order, "Starboard," "Port" or "Steady;" steering with an indicator needle and compass what is it your particular job to watch?

A. Well, in a dark night I listen at his voice, you know, and when he says, "Steady," well, I know how the vessel swings; I can always tell that, you know.

Q. I want to know what is your particular job to watch, or what do you have to concentrate your mind on?

A. When I am steering the vessel after the pilot's order, you mean?

Q. Yes.

A. Well, for instance, if he says port her a bit, I go over (witness illustrating by motion with hands), then steady, all right; then I take the wheel back

again; see? And here is the needle that swings on a brass dial in front, you know, and I will always know, you know, as soon as that needle is up and down; and here is the helm (illustrating). The road is straight, then, you know; and then the vessel maybe has got a little more speed than is necessary over to one side a little, and then I check it to the other side. That is my own judgment I have got to use there, you know; and of course, that is very simple. That is pretty hard for me to explain it, how I steer a vessel; but a child that is ten years old can learn that in five minutes.

Q. Well, then, as I understand you, this dial, this needle is what you have to watch?

A. Yes; and then have your ears open too, and listen to his voice.

Q. Is that what you were doing that night?

A. Yes; that is what I was doing, particularly, too.

Further Redirect Examination by Mr. GUTHRIE:

Q. Mr. Kalberg, when the anchors were dropped do you know how far the barge drifted before she came to a stop?

A. I don't know, sir.

Q. Do you know how long it was before she came to a stop?

A. No, sir.

Q. Do you have any idea?

A. No, I haven't got the slightest idea, because I stood by up at the wheel, you know, further over. A man ain't allowed to leave the wheel, you see.

Q. But you are clear that the anchors were dropped very shortly after the order?

A. Yes, I know that; I am certain.

By Mr ERSKINE WOOD: Q. As a quartermaster is it any part of your business to watch the lights of approaching vessels?

A. No; I got no business outside of my steering. That is none of my affairs. If I get a range light I steer after it. The pilot points out a range light ahead, "Now you keep that light ahead there" like, I have got to steer right for that light. But at that particular time there wasn't any light to steer after.

Mr. WOOD: That is all, as far as I know.

Mr. GUTHRIE: Q. Mr. Kalberg, in what direction as to how you were at your wheel did this bluff loom up at the time?

A. In what direction?

Q. Yes; that is, your boat's direction?

A. On the right hand side, you know, slightly ahead.

Q. With the starboard bow?

A. Yes, that is correct all right. No; at the time?

Q. Yes.

A. No; at the time of the collision I—

Q. (Interrupting) No; I said at the time the order was given.

A. Oh, that is different.

Q. On the starboard bow? At the time of the collision where did the bluff loom up?

A. Well, then I was going in, like the river was

here, and here is the bluff right here; I was heading right in this way (witness illustrating).

Q. And the bluff would come up then where?

A. The bluff would come up—if that is the barge (indicating), it would come up this way. I was facing right into the bluff, like.

Q. It would come right up into the bow, or the port bow?

A. Right into the bow; right square in the stem. That is where it would hit.

And further deponent saith not.

WM. KALBERG,

[Endorsed]: Deposition of Wm. Kalberg. Filed Nov. 23, 1912.

A. M. CANNON,

Clerk.

And afterward, to wit, on the 7 day of January, 1913, there was duly filed in said Court, a deposition, in words and figures as follows, to wit:

[Libellant's Exhibit 16—Deposition of C. B. Sorley.]

(Title.)

Be it Remembered that pursuant to the stipulation hereto attached, on Monday, September 16, 1912, at the hour of three o'clock in the afternoon, at the office of Messrs. Snow & McCamant, in the Electric Building, corner of Seventh and Alder streets, in the City of Portland, State of Oregon, before me, Alva W. Person, a Notary Public in and for the State of Oregon, duly appointed and commissioned to admin-

ister oaths, etc., personally appeared C. B. Sorley, a witness produced on behalf of Libellant and Respondent, Standard Oil Company, in the above entitled case now pending in the District Court of the United States for the District of Oregon, In Admiralty, who, being first by me duly sworn to tell the truth, the whole truth and nothing but the truth, was then and there examined and interrogated by Mr. Zera Snow, of Proctors for Respondent, and by Mr. Wirt Minor, of Proctors for Claimant, and by Mr. Erskine Wood, of Proctors for Libellant herein, and testified as follows:

Direct Examination by Mr. SNOW:

Q. What is your full name and place of residence and business, Captain Sorley?

A. Charles B. Sorley, business sea faring man; residence, Point Richmond.

Q. Point Richmond, California.

A. Point Richmond, California.

Q. You remember the circumstances of a collision which occurred on the Columbia River in July, 1911, between the tug Samson and her tows, and the Henderson and barge No. 93?

A. Yes, to a certain extent I remember what occurred.

Q. What position did you occupy on barge 93 at the time?

A. Master.

Q. How long had you been engaged as master for the Standard Oil Company on its oil barges at that

time?

A. Only a short time.

Q. How long have you been a sea faring man?

A. Well, I can't say. It is over twenty years anyway.

Q. How old are you now, Captain?

A. Thirty-three.

Q. Do you remember about the time that barge 93 with the Henderson left Astoria that night?

A. Well, as far as I can remember I think it was about eight forty-five.

A. At the time of the collision were you in bed or were you awake on deck?

A. I was asleep at the time.

Q. What first aroused you that night?

A. A whistle from the Henderson, one long whistle.

Q. What did you understand that whistle to be, as you gather it from your experience?

A. Some danger of collision.

Q. What did you do immediately on hearing that danger signal?

A. I immediately jumped out of bed and ran on deck.

Q. Your sleeping quarters on barge 93 were on what part of the barge, or were they on the barge or on the Henderson?

A. On the aft end of the barge.

Q. On the aft end of the barge. Did you dress before going on deck?

A. No; I jumped on just the way I come out of bed.

Q. When you got on deck did you see the tug Samson and her tows and the Henderson?

A. I see them. They were sheering off at the time.

Q. Sheering off from what?

A. From the Henderson.

Q. How many tows did the Samson have?

A. Well, that I could not say.

Q. Did she have a tow at all?

A. She had a tow.

Q. Do you know how many she had in tow?

A. Well, the next day I could see the three scows or the three lighters.

Q. The three rock barges?

A. The three rock barges.

Q. But at the time of the collision you didn't know how many tows she had?

A. No, I did not.

Q. Did you know that she had any tow at all?

A. I knew that she had tows, because I could see that she had something.

Q. Now, as soon as you got on deck that night what did you do with reference to giving any order to let go of the anchors?

A. I immediately told them to let go of the anchors.

Q. And did you hear anybody else give any order to let go of the anchor on the barge?

A. That order was given forward about the same time.

Q. What sort of anchors was the barge equipped with?

A. Patent anchors.

Q. And how soon can they be let go after an order to let go is given?

A. Oh, if you are on hand it is only a matter of a second or two—less than that.

Q. How soon, in fact, were the anchors let go that evening after the order was given to let them go?

A. Oh, a few seconds; probably four or five seconds; it could not be any more.

Q. What has to be done in order to let go of the anchor, in order for the anchor to pay out?

A. Just simply pull the lever over.

Q. How soon would you say the anchor was let go after the order was given?

A. Just a matter of a few seconds, possibly ten seconds altogether.

Q. How near to either the Oregon or the Washington shore was barge 93 when the order to let go the anchor was given?

A. Very close.

Q. Could you see the Oregon shore?

A. Yes; very plainly.

Q. Did you stay on board of barge 93 that night?

A. I did.

Q. And in the morning how near the shore were

you anchored?

A. Just about a ship's length or less.

Q. And by ship's length you mean how far?

A. About two hundred and eighty feet, or two hundred and sixty four feet.

Q. And is that the length of barge 93?

A. The actual length of the barge is (witness here looks for memorandum).

Mr. SNOW: Oh, well you can give the approximate length Captain for my purpose, I think.

Witness: Well, I have the dimensions of that barge here somewhere, so there won't be any mistake about it. (After looking further) Well, I haven't them here just now.

Q. Approximately what is the length of the barge?

A. Approximately about two hundred and eighty feet.

Q. And you were then about two hundred and eighty feet from shore the next morning when it was day light so that you could see thoroughly?

A. Yes, sir.

Q. Had their been any change in the location or change in the position of the barge during the night at all,—any change of anchorage after the anchor chains were let down?

A. No, none whatever.

Q. How long did she drift or how far did she drift after the anchor chains were let go?

A. I don't think she drifted more than a few feet,

because when she fell back on the anchor chain, or sagged back, she must have been in the actual position she was at the time of the collision. She never tightened the chains.

'Q. Now, you say, Captain, that you were asleep at the time of the collision. Do you exactly mean that?

A. Well, no; I could not say whether I was asleep, or just dozing, or what; but I was—

Q. (Interrupting) The first thing you heard were the danger signals of the Henderson?

A. Yes, I heard the danger signals; yes.

Q. Did you hear any impact after that?

A. I heard that on my way up.

Q. On your way up on deck?

A. Yes.

Q. How far was it from where you were sleeping to get on deck?

A. Oh, about twenty feet or thirty feet.

Q. And while you were going up you heard the impact?

A. Yes.

Q. What was the impact that you heard,—a crashing together or—

A. (Interrupting) Just a shock.

Q. A shock. You don't know what signals had been given to the Henderson, if any, before that?

A. No, I do not.

Mr. SNOW: Cross examine, Mr. Minor.

Cross Examination by Mr. MINOR:

Q. Captain, you appeared before Captain Birmingham in San Francisco about the seventh of August, 1911, and testified regarding this matter?

A. Yes.

Q. You remember that occasion, do you?

A. I remember the occasion, yes.

Q. At that time, Captain, you seemingly had a sketch that you made?

A. Yes.

Q. Where is that sketch?

A. Well, I don't know where it is now.

Q. You don't know where it is now. In your testimony down there, in which you produced that sketch, you stated that the vessels met at about right angles; is that correct?

A. As far as I could see at the time.

Q. In your testimony before Captain Birmingham you stated that the Captain of the Samson was a man named Stinson; is that correct?

A. Stinson, yes.

Q. He was Captain of the Samson?

A. No, no; captain of the Henderson.

Q. Well, you said down there captain of the Samson?

A. No; that is a mistake.

Q. That is wrong?

A. That is wrong.

Q. In your testimony before Captain Birmingham on the 7th of July, 1911, you stated that Captain

Sullivan on the barge blew his one whistle to pass to port, put his helm to port; now is that correct?

A. Well, of course, I didn't know that. That is only what I got from my boatswain, or the man that was on watch at the time.

Q. So you don't know anything about that?

A. No, I don't know anything about that.

Q. You don't know then that he blew a whistle at all?

A. No, I didn't hear any whistles that he blew.

Q. And you didn't hear any whistle?

A. No.

Q. That the Samson blew?

A. No, only—no; I didn't hear any whistle that the Samson blew at all.

Q. Well, you stated there that he put his helm to port?

A. Yes.

Q. You don't know anything about that, do you?

A. No, only what I heard afterwards.

Q. In your testimony there you stated that the Captain of the Samson answered with one whistle.

A. Yes.

Q. That is not correct so far as you know?

A. No, that is not correct. You see, that there is, I guess, an actual copy of the letter, the first letter I wrote down from here, down to the office, stating the facts.

Q. Now again, in your testimony there you were asked whether the Captain of the Samson changed

his helm, and you answered, "He didn't seem to;" that is not correct, either, is it?

A. Is that my statement or Mr. Martinsen's?

Q. It is marked Sorley and came up from San Francisco as such. That is all I know about it.

A. That don't sound like my statement. That sounds like this Mr. Martinsen's statement.

Q. No, this is Sorley. That is not correct, so far as you know, then?

A. No; some of it is not correct.

Q. Then you can't say whether he changed his helm or not?

A. No, I can't say whether he changed his helm or not?

Q. In your statement down there at that time and place you stated in answer to the question put to you by Captain Birmingham, I suppose—he asked you the questions, didn't he?

A. Yes, he did.

Q. "Did your barge answer her helm?" And you answered, "Very rapidly. She always does."

A. Yes.

Q. Do you know anything about that?

A. I know she answers her helm. I told them, I guess, she answers her helm very rapidly.

Q. But you don't know anything about whether she answered her helm that night or not?

A. No, I could not tell whether she did or not.

Q. In the same examination you stated in answer to a question, "And you kept over towards the south

bank, main land, all the time?" And answered, "Yes, sir." You don't know anything about that, do you?

A. No. That is not my statement. I can see that now.

Q. Well, it is marked so on my copy?

A. Well, that is a mistake.

Q. In your testimony there you also stated in answer to the question, "And he kept coming down, head on, to you?" You answered, "Yes, sir." You don't know anything about that, do you?

A. No.

Q. In your testimony there in answer to the question, "How much of the river was on your port side when you struck him?" you answered, "Most of a quarter of a mile, a good eighth of a mile anyway." You don't know anything about that, do you?

A. No.

Q. That is not correct, so far as you know?

A. No.

Q. And in answer to the question, "How much on your starboard side?" you said, "None at all; only a few feet." You don't know anything about that either, do you?

MR. SNOW: What are you talking about there, Mr. Minor?

MR. MINOR: This is the testimony that he gave.

MR. SNOW: What do you mean by "on your starboard side?" What do you mean by that?

WITNESS: The Oregon side.

MR. MINOR: (Reading) "How much of the

river was on your port side when you struck him?" He says, "Most of a quarter of a mile; an eighth of a mile anyway."

WITNESS: I might have said that down there, because it only looked to me as a few feet.

Q. (Reading) "How much on your starboard side?" You said, "None at all; only a few feet."

A. Only a few feet, yes, sir.

Q. In answer to the question, "Close in to the bank?" you said, "Yes, sir."

A. Yes.

Q. That part of it is correct, is it?

A. That part of it is correct.

Q. Again you were asked, "Did Pilot Sullivan blow one blast of her whistle—the barge's?" And you answered, "Yes, sir." You don't know anything about that, do you?

A. No.

Q. Again you were asked, "Did the Samson answer that one?" And you answered, "Yes, sir." You don't know anything about that, do you?

A. No.

Q. You also were asked this question: "Did Pilot Sullivan, after a minute or two blow another signal blast of the whistle?" And you answered, "Yes, sir." Do you know anything about that?

A. No.

Q. Then you were asked this question: "Did the Samson answer the second whistle," and you answered, "No, sir. I don't know whether—no, he

didn't." You don't know anything about that, do you?

A. No; I don't know anything about that at all.

Q. Then you were asked this question, "Did Sullivan blow any danger signals?" And you answered, "I don't know whether he did or not." Is that correct?

A. That is correct.

Q. You were asked also whether there were any cross signals blown, and you answered no, sir. Do you know anything about that?

A. No, I don't remember anything about it.

Q. How long was it after the collision before the Henderson sank?

A. Oh, I could not say exactly; a few minutes; possibly two minutes.

Q. Now, in your testimony before Captain Birmingham you said a little over three or four minutes.

A. I don't know exactly; I could not say exactly what time. I don't remember, anyway, what I did say, but a matter of a short time.

Q. That was your impression at the time that you gave your testimony?

A. Yes, sir.

Q. Now, you think that the collision took place right where your oil barge was the next morning, do you?

A. I do, yes.

Q. You don't think your barge drifted at all?

A. No, she didn't drift at all.

Q. How far was it from where the oil barge was to the point where the Henderson sank?

A. Oh, somewhere around a mile, I should judge.

Q. A mile; in what direction?

A. Well, the way, the direction of the river. I don't know the exact bearing there, but I should judge that would be almost west.

Q. Down the river from you?

A. Down the river; or northerly west.

Q. What became of the Samson after the collision?

A. She proceeded over and anchored her barges the other side of the river.

Q. She proceeded over and anchored her barges on the other side of the river.

A. Yes.

Q. Were the barges still attached to her?

A. Well, I don't know whether they were really fast to her, but she let go of the barges there on the other side of the river down below us.

Q. She didn't let go of the barges until after that, then?

A. No.

Q. The barges were not torn loose by the impact?

A. Well, I don't know whether they were loose altogether. They might have been partly adrift, you know; but he still had hold of them. He anchored them down below on the other side.

Q. Did the Samson anchor the barges at all?

A. He must have anchored them, because they

were laying there swinging to anchor the next morning.

Q. I know, but did you see the Samson anchor the barges?

A. I could not see whether he anchored them or not. They stopped there.

Q. Now, if as a matter of fact you stated that the Samson anchored the barges, you didn't know that, did you?

A. No, I don't know that.

Q. You only judge the barges were anchored?

A. Yes, because they were swinging to anchor there the next morning.

Q. Yes; that is all you know about it?

A. That is all I know about it.

Q. You spoke of a statement which you sent down to, I believe you said, to the owners of the barge?

A. The manager of the company.

Q. The manager of the company?

A. Yes; Mr. Rohlfs.

Q. I wish you would look at this paper which I show you and tell me whether that is a copy of the statement which you sent down, or not?

A. Yes, that is the statement.

Q. That is a copy of the statement which you sent?

A. That is a copy of the statement.

Q. This statement which you have looked at was prepared by you very soon after the collision took place, wasn't it?

A. No, that statement isn't—no, no; that statement was taken by Mr. Rohlfs himself.

Q. Taken by whom?

A. Mr. Rohlfs, the manager of the marine department of the Standard Oil Company.

Q. When was that taken?

A. In Seattle shortly afterwards, on another trip.

Q. Was this the statement you made?

A. No. There is another one. There is a copy of a letter. I don't know whether I swore to that or not.

Q. You have a copy of it?

A. I have a copy of it.

Q. Of the other statement that you made?

A. The other statement that I made.

Q. Have you got it with you?

A. Yes.

Q. I would like to see it.

A. That is a personal letter to Mr. Rohlfs, and if I remember right it was taken before a notary and sworn to. That is a copy of it (witness passing same to Mr. Minor).

Q. This is the statement that you had at the time that you were examined by Captain Birmingham, is it? Is that right?

A. Yes, that is—I don't know exactly. I don't remember now whether that thing came out.

Q. You haven't got with that statement a copy of the sketch you made for Captain Birmingham?

A. No, I haven't.

Q. Now, this statement which you now produce and which you say was made soon after the collision occurred—

A. (Interrupting) Well, that statement wasn't. That is just a personal letter to Mr. Rohlfs. That was written just a short time after the collision or a short time I think after we arrived at Portland; and I don't know, I think Captain Birmingham had that letter or a copy of it.

Q. Now, that statement contained in that letter does not state what you saw at all?

A. No, it does not; just the facts as I got them from the others. It don't say anything about—

Q. (Interrupting) In this statement which you made at that time you say that the tug—

Mr. SNOW: (Interrupting): Mr. Minor, if you are going to use that statement put it all in.

Mr. MINOR: Well, you can put it all in.

Q. In this statement which you made—

Mr. SNOW: (Interrupting): Well, I object to your taking extracts.

Mr. MINOR: All right, make your objection.

Mr. SNOW: I insist on your using the entire letter, or none of it.

Mr. MINOR: Make your objection; I don't care.

Q. In this statement you say "the tug Samson's lights came into view and our pilot blew one blast of the whistle and ordered his course to starboard porting the helm." Now, you don't know anything about that, do you?

A. I don't know anything about that. That is just a personal letter describing the thing as it occurred, from the facts I got from the others.

Q. In the same letter you said, "The tug Samson immediately answered signal but did not appear to change his course." That you don't know anything about?

A. No.

Q. In the same statement you say, "As soon as our pilot noticed this he again blew one whistle." You don't know anything about that?

A. No.

Q. In the same letter you state, "Barge number 93 was by this time so far out of the main channel and over to starboard side of the river that to go any further meant striking the river bank." You don't know anything about that?

A. No.

Q. In the same letter you state, "The Samson came straight on." You don't know anything about that, do you?

A. No.

Q. In the same letter you state, "When our pilot saw that it was impossible to prevent collision he immediately stopped and backed with M. F. Henderson." You don't know anything about that, do you?

A. I don't know anything about that.

Q. In the same letter you state, "At the same time warning the pilot of the tug Samson to do the same." You don't know anything about that either?

A. I don't know anything about that.

Mr. SNOW: I move to strike out all the examination of the witness because it is not cross examination, because he has not referred to the entire report made to Captain Rohlfs.

Q. Now, when did you make this statement which I now show you?

A. That statement was made in Seattle.

Mr. WOOD: Can you identify that statement?

Q. (Mr. Minor) It purports to have been sworn to before Captain Birmingham?

A. Yes, sir.

Q. Was it sworn to before Captain Birmingham?

A. I think it was.

Q. Where was it sworn to?

A. In San Francisco.

Q. Who produced it when it was sworn to?

A. Mr. Rohlfs, I believe.

Q. Mr. Rohlfs, the manager of your concern?

A. Yes, sir.

Q. This statement which I now show you contains all that you really know about the collision?

A. That is all I really know.

Q. And that was made soon after the collision took place?

A. That was just a short time afterwards.

Mr. MINOR: I offer that statement in evidence.

WITNESS: This is the real thing.

Mr. MINOR: The statement just identified by the witness.

Mr. SNOW: No objection to that. Just read it right into the record.

Thereupon said statement was received and is set out as follows to wit:

"Aug. 14th, 1911.

"Statement of CAPTAIN C. B. SORLEY, Barge 'No. 93', in regard to collision between the Tug 'Samson' and barges and tug 'Henderson' and barge 'No. 93.' Dimensions of barge 'No. 93', 281 x 45.4 x 23.4. I came on deck just an instant after the collision. The port barge of the "Samson's" tow hit the 'Henderson' on the port side a little aft of the stem, as I saw them break apart. None of the barges in tow of the 'Samson' struck barge 'No. 93'. The 'Henderson' scraped alongside the barge 'No. 93', scratching the black paint, but none of the yellow paint on the iron beading around barge 'No. 93' was touched. The collision occurred about 1:30 a. m. July 22nd, and took place off Bugby Hole about one ship's length from the Oregon shore. I got on deck aft, just an instant after the collision, as I was awakened by the whistles and noise of the men on board of the 'Henderson' just before the collision took place. Immediately I arrived on deck, or a few seconds after the collision, being on the after port side of barge 'No. 93', I shouted to let go anchors, and the same order was given forward, I think by the pilot at about the same time. The barge 'No. 93' did not have much headway, as she fetched up very easy on the anchors, and we had about 40 fathoms of chain out when the vessel

fetched up. I should judge the position of the barge, after sagging back on the chains, would be about the place where the collision occurred, and we were on the Oregon side very close to the shore. Whenever we go up the Columbia River, the windlass is always unlocked and put on the compressor so we can anchor quickly.

(Signed)

C. B. SORLEY.

Subscribed and sworn to before me this 19th day of August, 1911.

JOHN BIRMINGHAM,

Supervising Inspector, 1st District.

Subscribed and sworn to before me this 19th day of August 1911.

FRANK L. OWEN,

Notary Public in and for the City and County of San Francisco, State of California. (SEAL)"

Re-Direct Examination by Mr. SNOW:

Q. Captain Sorley, referring to the report which you made to Mr. Rohlfs, of course the report that you speak of is a personal letter.

A. Yes.

Mr. SNOW: I will read you that report as it is given here in detail, extracts from which the counsel examined you about. (Reading) J. C. Rohlfs, Dear Sir: In regard to collision between tug M. F. Henderson towing barge 93 and tug Samson with rock barges in tow, I wish to state that voyage 213 from Richmond to Portland sailed from Astoria to Port-

land 8:45 p. m. with tug M. F. Henderson towing alongside and pilot E. Sullivan in charge. After proceeding up river about twenty five miles and near a bend in the river called Bugby Hole the tug Samson's lights came into view and our pilot blew one blast of the whistle and altered his course to starboard, porting the helm. The tug Samson immediately answered signal, but did not appear to change his course. As soon as our pilot noticed this he again blew one whistle. Barge 93 was by this time so far out of the main channel and over to starboard side of the river that to go any further meant striking the river bank. The Sampson came straight on. When our pilot saw that it was impossible to prevent collision he immediately stopped and backed the M. F. Henderson, at the same time warning the pilot of the tug Samson to do the same but could not stop boats from coming together. The rock barge on the Samson's port side crashed into the port bow of the M. F. Henderson and breaking her adrift from Barge 93. This happened about 1:30 a. m., and a few minutes later the M. F. Henderson sank. We let go both anchors immediately after the crash, thereby preventing Barge 93 from going ashore. I went to work at once to ascertain damage to Barge 93 but could find only a few scratches on paint. The crew of the M. F. Henderson were taken off sinking tug by fishermen and placed aboard Samson and later transferred to barge 93. The Diamond O arrived on the same day 3:30 p. m. and made fast alongside and towed barge

to Portland where we arrived July 23, 8:15 a. m." That which I have read you, Captain Sorley, is a copy of the letter which you spoke of having written Mr. Rohlfs from Portland shortly after the collision?

A. Yes.

Q. That letter states a good many facts which you gathered in connection with an investigation of the subject of the collision?

A. Yes.

Q. Not facts which you yourself knew?

A. No.

Q. How much of the facts set forth in this letter do you yourself know? That is, what time did you leave Astoria?

A. The time we left Astoria and the time of the collision.

Q. That and the time of the collision?

A. Yes.

Q. Now, all of the facts which may have occurred before the blowing of the danger signals which you speak of herein and in your testimony here today, are based upon information which you gathered and reported to Mr. Rohlfs?

A. Yes.

Q. Now, what did you do with reference to examining the barge 93 to ascertain whether she was injured or scratched in any way?

A. I just went down through the 'tween decks to see if there was any leaks there anywhere.

Q. Well, was there any?

- A. I could not find any at all.
- Q. Was barge 93 loaded with oil?
- A. Loaded with oil.
- Q. Now when you came up on deck after hearing the danger signals of the Henderson was barge 93 still fastened to the Henderson?
- A. By one line.
- Q. What line was that?
- A. Stern breast line.
- Q. The stern breast line?
- A. Yes.
- Q. Which way was the Henderson drifting from barge 93?
- A. It was drifting astern.
- Q. How soon after you came on deck was the stern breast line broken?
- A. Just a few seconds.
- Q. When you came on deck where was the Samson and her tows?
- A. They were just off on her port bow, sheering off.
- Q. Off the Henderson's port bow?
- A. Yes.
- Q. Sheering off?
- A. Sheering off.
- Q. How close to the Henderson were they?
- A. I could not tell you.
- Q. Did you see the Samson and her tows at the time?
- A. I see the Samson.

Q. Did you see the tows at the time?

A. I could not see her tows at the time very well, no.

Q. How near to barge 93 or to the Henderson was the Samson?

A. Well, I could not say. They could not have been very far.

Q. Did you know at the time that it was the Samson?

A. Yes.

Q. How did you know that?

A. I see her, know her well.

Q. You know the Samson well?

A. Yes.

Q. Now, did you see any evidence whatever on barge 93 of any collision between it and the Samson, or any part of her tows?

A. None whatever. There was a little paint scratched off. It didn't amount to anything where the Henderson's bow rubbed alongside.

Q. Where the Henderson's bow rubbed along the side of barge 93?

A. Yes, where the Henderson's bow rubbed alongside of barge 93.

Q. But beyond that you saw no evidence of any collision between barge 93 and either the Samson or her tows?

A. No, none whatever.

Further Examination by Mr. WOOD:

Q. Captain, you stated a moment ago that the

Henderson sank about a mile away from the oil barge?

A. Yes, as close as I could judge.

Q. I would like to ask you whether you mean that that is where she sank in the water or whether that is where she brought up on the sand spit.

A. That is where she was brought up after she sank. I don't know exactly where she first sank, but that is where she was.

Q. Well, what did you mean when you said that she sank in three or four minutes?

A. Well, she went down. All lights went out as far as we could see her. Her lights went out, and after her lights went out we could not see her any more.

Q. You don't mean she traveled a mile in three or four minutes?

A. No; she could not possibly do it.

Q. Of course not, but it sounded that way.

A. No; but her lights went out and after that we could not see her any more.

Q. That is what you mean happened after three or four minutes?

A. Yes, that is what happened after three or four minutes, and she was ashore just about a mile below us, as far as I can remember.

Q. You said in the letter which Mr. Snow has read you a copy of that pilot Sullivan was in charge.

A. Yes, sir.

Q. Was he the Standard Oil Company's pilot?

A. No. He is the ordinary Columbia River pilot.

Q. Who employed him?

A. Well, the Pilot Association employ him.

Q. Where was he taken on the oil barge?

A. At Astoria.

Q. From which boat were the movements of the two boats directed from Astoria up to the time of the collision?

A. From 93.

Q. Did the pilot of barge 93 have complete control of the whole situation?

A. Complete control.

Q. Mr. Minor, this gentleman here (indicating) read you many statements which you made in your testimony before Captain Birmingham, and as to a good many of them asked you whether you knew anything about that, and you said, "No, I don't." I would like to ask you whether you mean that you did not know anything about those statements from actual observation or whether you knew something about them from the reports given you by your crew?

A. Those I knew; I knew those. Of course, I gathered them from the crew, but as far as seeing them myself I did not.

Mr. WOOD: That is all.

Recross Examination by Mr. MINOR:

Q. Captain, you didn't see the Henderson rub the paint off of the oil barge, did you?

A. No, I did not, because it was clear of ship's side when I came on deck.

Q. Then when you said that the paint was rubbed off by the Henderson you were just guessing at it?

A. Well, there was nobody else could rub that paint off that low.

Q. Couldn't the rock barge rub it off that low?

A. The bows of the rock barges are quite high.

Q. Higher than the bow—

A. (Interrupting) Higher than the Samson's deck would be.

Q. Higher than the bow of the Henderson?

A. Of the Henderson, yes.

Q. When the rock barges are loaded with rock are their bows higher than the bow of the Samson?

A. They are quite high out of water. I don't know their actual height, but they are quite high out of water, and I should judge really they are higher than the Samson is or the Henderson is.

Q. That is the only way you judge?

A. That is the only way I judge.

Q. If as a matter of fact the bow of the rock barges is not higher than the bow of the Henderson, that paint might have been rubbed off by the rock barge, mightn't it?

A. It could not have been, I think.

Q. I say, if, as a matter of fact—

A. (Interrupting): If that paint had been rubbed off by the rock barges I would have seen the rock barge. It would have been in between the Henderson and the barge at the time I come on deck.

Q. They had sheered off at that time, hadn't they?

A. No; they were clear, just clear the ship's side. But they would have been on the inside when I came on deck if they had scratched that paint off.

Q. At what point on the rock barge was that paint rubbed off?

A. Upon the oil barge?

Q. Upon the oil barge, yes.

A. Well, just between the mizzen and jigger rigging.

Q. At what point on the oil barge was the Henderson made fast?

A. Just the same place.

Q. Now, is it not true that that paint was rubbed off forward of where the Henderson was?

A. No, it was not; just about where the Henderson was made fast at the time.

Q. Wasn't it a little forward of that?

A. No, it wasn't any forward. It might have been a little aft, if anything.

Q. It might have been a little aft?

A. Yes.

Q. You don't mean to say that you did not swear before Captain Birmingham as I have read to you from this testimony you did swear, do you?

A. I swore to certain facts; I don't know what, I don't remember what they were; and those don't look familiar to me or appear familiar in any way at all.

Q. These facts are a part of the same facts that you had set forth in your letter, aren't they?

A. Some of them are, yes.

Q. All of them are, aren't they?

A. Those may be a copy of the letter, for all I know.

Q. And you swore to that letter, you say, somewhere?

A. Yes, I swore to some letter.

Q. You say you swore to that letter Mr. Snow read you?

A. Yes.

Q. As containing the facts?

A. Yes.

Mr. SNOW: I don't understand that he states that, Mr. Minor.

Mr. MINOR: Yes; he said he swore to that letter containing the facts.

Mr. WOOD: I think he said, Mr. Minor, he thought he may have.

Mr. MINOR: No; he said he thought he did.

WITNESS: One of these letters, I would not say; I wrote two letters to Mr. Rohlfs, and one of those letters was produced before the inspectors, before Mr. Birmingham, and if I remember right I swore to the facts in that letter, as far as I knew.

Q. And you swore to the facts as far as you had heard them?

A. Yes, as far as I had heard them; because otherwise I didn't know anything about it.

Mr. MINOR: That is all.

WITNESS: That letter there I swore to, I know.

Mr. SNOW: The letter in this book of testimony?

A. Yes; that letter I swore to.

Mr. WOOD: In this statement, the same being the letter which you swore to before Captain Birmingham, you do not say whether or not the anchors were as a matter of fact let go very shortly after the order was given; that is not stated in there?

A. No.

Mr. WOOD: And in answer to a question by Mr. Minor you said that this statement contained all you knew about the collision?

A. All that was ever asked me about it by Mr. Rohlfs.

Mr. WOOD: Do you know as a matter of actual observation how soon the anchors were let go on barge 93 after the order was given?

A. Well, I never took the time.

Mr. WOOD: I mean approximately.

A. Approximately I should judge four or five seconds, or even less.

Mr. WOOD: And do you know how long the order was given after the collision?

A. Yes, I do.

Mr. WOOD: About how long was it?

A. Just a second, just about the time of the collision. Just a second after the collision.

Mr. WOOD: That is all.

And further deponent saith not.

C. B. SORLEY.

] Endorsed[: Deposition of C. B. Sorley. Filed

Jan. 7, 1913.

A. M. CANNON,
Clerk U. S. District Court.

And afterward, to wit, on the 1 day of November, 1913, there was duly filed in said Court, a Notice of Appeal, in words and figures as follows, to wit:

[Notice of Appeal.]

*In the District Court of the United States for the
District of Oregon.*

THE STEAMER "SAMSON" and BARGE No. 8,
BARGE No. 9, and BARGE No. 27,
COLUMBIA CONTRACT COMPANY, a corporation,

Claimant and Stipulator,
SHAVER TRANSPORTATION COMPANY, a
corporation,

Libellant,
STANDARD OIL COMPANY INCORPORATED
UNDER THE LAWS OF THE STATE OF
CALIFORNIA, a corporation,

Respondent in Personam.

Sirs:

Please take notice that the Claimant above named appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the decree of the District Court of the United States for the District of Oregon in the above entitled cause made and entered on the 23d day of October, 1913, and from each and every

part thereof.

Portland, Oregon, November 1, 1913.

Yours etc.

TEAL, MINOR & WINFREE,
Proctors for Appellant.

To—

Wood, Montague & Hunt,
Proctors for Libellant,
and

To—

Snow, & McCamant,
Proctors for Respondent in Personam,
and

To—

A. M. Cannon,
Clerk of the above Court.

[Endorsed]: Notice of Appeal. Filed Nov. 1,
1913.

A. M. CANNON,
Clerk U. S. District Court.

Service of the within Notice of Appeal and receipt
of a copy is hereby admitted this 1st day of November,
1913.

ERSKINE WOOD,
of Proctors for Shaver Transportation Co..
SNOW & McCAMANT,
Proctors for Standard Oil Co.

And afterwards, to wit, on the 6 day of November,
1913, there was duly filed in said Court, a Bond

on Appeal, in words and figures as follows, to wit:

[Bond on Appeal.]**(Title)**

KNOW ALL MEN BY THESE PRESENTS, That we, COLUMBIA CONTRACT CO., a corporation, and we, JOHN KIERMAN, residing at No. 165 20th Street North, Portland, Oregon, and DANIEL KERN, residing at 178 East 15th Street, Portland, Oregon, are held and firmly bound unto SHAVER TRANSPORTATION COMPANY, a corporation and unto STANDARD OIL COMPANY INCORPORATED UNDER THE LAWS OF THE STATE OF CALIFORNIA in the sum of Two Hundred and Fifty Dollars (\$250) each, and in the further sum of Forty Thousand dollars (\$40,000) to be paid to the Shaver Transportation Company and to the said STANDARD OIL COMPANY INCORPORATED UNDER THE LAWS OF THE STATE OF CALIFORNIA as their respective interests may appear, and to their successors and assigns, for the payment of which well and truly to be made we bind ourselves, and each of us, our and each of our successors, assigns, heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 1st day of November, 1913.

WHEREAS, Columbia Contract Co., as claimant of the Steamer "Samson" and Barge No. 8, Barge No.

9 and Barge No. 27 has appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the decree of the District Court of the United States for the District of Oregon bearing date October 23, 1913, in a suit in which Shaver Transportation Company is libellant against The Steamer "Samson" and Barge No. 8, Barge No. 9 and Barge No. 27 are respondents and Standard Oil Company Incorporated under the Laws of the State of California is respondent in personam, which said decree orders that libellant, Shaver Transportation Company have and recover of and from the claimants herein, Columbia Contract Co., a corporation, and from United States Fidelity and Guaranty Company, its stipulator on the stipulation filed herein for the release of the steamer "Samson" and her barges numbers 8, 9 and 27, the full sum of Thirty Thousand Eight Hundred and Seventy Dollars and seventy-five cents (\$30,870.75), damages suffered by said libellant from the said collision referred to in the libel of libellant, which damages are now found and stated to be the sum of \$30,870.75, together with interest thereon at six per cent. per annum from July 22, 1911, together with all costs and disbursements, taxed at \$

and the execution issue for the said several sums of money now decreed in favor of said libellant on the demand of libellant or its proctors, and that the supplemental libel of Shaver Transportation Company, libellant herein, against Standard Oil Company Incorporated Under the Laws of the State of California,

be and the same hereby is dismissed, and that the costs and disbursements of said Standard Oil Company Incorporated Under the Laws of the State of California be and they are hereby taxed at \$ and that said Standard Oil Company Incorporated Under the Laws of the State of California do have and recover of and from libellant one-half of said costs, to wit \$ and do have and recover from Columbia Contract Co. one-half of said costs, to wit, the sum of \$ and that execution therefor issue severally and respectively against libellant and claimant on demand of said Standard Oil Company Incorporated under the Laws of the State of California or its proctors.

AND WHEREAS, the said Columbia Contract Co. desires during the process of such appeal to stay the execution of the said decree of the District Court:

NOW, THEREFORE, the condition of this obligation is such that if the above named claimant Columbia Contract Co., shall prosecute such appeal with effect and pay all costs which may be awarded against it as such appellant if the appeal is not sustained, and shall abide by and perform whatever decree may be rendered by the United States Circuit Court of Appeals for the Ninth Circuit in this cause, or on the mandate of said court by the court below, then this obligation shall be void, otherwise the same shall be and remain in full force and effect.

COLUMBIA CONTRACT CO.,

By DANIEL KERN,
President.

JOHN KIERMAN, (Seal)
DANIEL KERN, (Seal)

Signed and sealed and delivered and taken and acknowledged this 1st day of November, 1913.

W. A. JOHNSON, (Notarial Seal)
Notary Public for Oregon.

UNITED STATES OF AMERICA,
District of Oregon,—ss.

I, JOHN KIERMAN and I, DANIEL KERN, being severally duly sworn, depose and say: I reside in the District of Oregon and am worth the sum of fifty thousand dollars (\$50,000) over and above my just debts and liabilities.

JOHN KIERMAN
DANIEL KERN

Sworn and subscribed to before me this 1st day of November, 1913.

(Notarial Seal) W. A. JOHNSON,
Notary Public for Oregon.

This bond approved as to form and amount and sufficiency of surety this 6th day of November, 1913.

WOOD, MONTAGUE & HUNT,
Proctors for Libellant.

SNOW & McCAMANT,
Proctors for Respondent in personam.

Approved November 6, 1913.

C. E. WOLVERTON,
Judge.

[Endorsed]: Bond. Filed Nov. 6, 1913.

A. M. CANNON,
Clerk U. S. District Court.

And afterwards, to wit, on the 1 day of December, 1913, there was duly filed in said Court, Assignments of Error, in words and figures as follows, to wit:

[Assignments of Error.]

(Title)

Comes now Columbia Contract Co., claimant and appellant in the above entitled cause, and assigns errors in the decision and decree of the District Court in said cause and in the rulings of said District Court in the admission and exclusion of evidence of said cause as follows:

I.

The court erred in sustaining the objection to a question propounded to the witness Sullivan on cross examination by the libellant, as follows:

. Captain look at this diagram (Appellant's Exhibit 2). If the course pursued by the "Samson" was as you indicate on this chart, under what helm was she going from letter "J" to the letter "K"? and refusing to allow the claimant to show by said witness that if the "Samson" ran on the course indicated by Exhibit 2, offered in evidence on behalf of the appellant, or approximately on said course, indicated by the letter "K", where the witness says the "Samson" was when first seen, and the letter "L", where the wit-

ness says the "Samson" was when the first signal was given, the "Samson" changed her course and that, between the latter point indicated by the letter "L" and the point indicated by the letter "I", the "Samson" was run on a steady helm without porting or starboarding her helm.

II.

The court erred in admitting in evidence the photograph marked "Libellant's Exhibit 7."

III.

The court erred in admitting in evidence the photograph marked "Libellant's Exhibit 10."

IV.

The court erred in admitting in evidence the photograph marked "Libellant's Exhibit 11."

V.

The court erred in admitting in evidence photographs of the operation of the wrecking of the "Henderson" marked respectively "Respondent's Exhibit 12," "Respondent's Exhibit 13" and "Respondent's Exhibit 14."

VI.

The court erred in overruling the objection of the claimant to the question propounded to the witness Johnston as follows:

Q. I will ask you to state approximately what, in your opinion, it would cost to replace the Henderson in 1911?" and in permitting said question to be answered and erred in considering the evidence of said witness in regard thereto.

VII.

The court erred in overruling the objection of the claimant to the memoranda prepared by the witness Johnston and in admitting said estimate in evidence over the objection of respondent, which estimate is marked "Libellant's Exhibit 25."

VIII.

The court erred in overruling the motion of the claimant and appellant to strike out all the evidence of the witness Johnson regarding the cost of building a new boat like the "M. F. Henderson" and in regard to the value of a new boat like the "M. F. Henderson," and erred in considering the evidence of the witness Johnston in regard to the cost of building a new boat like the "M. F. Henderson" and in regard to the value of a new boat like the "M. F. Henderson."

IX.

The court erred in admitting in evidence the statement of Libellant's Exhibit 26.

X.

The court erred in overruling the objection of the claimant and appellant to the question propounded to the witness Shaver on his direct examination in which the witness Shaver was asked to state what was the worth of the "Henderson" to the witness or to his company and in allowing said witness to testify in regard thereto, and erred in overruling the motion to strike out the answer of the witness and the testimony of the witness in regard to the value of the boat to the witness or to his company.

XI.

The court erred in assuming that there was any fixed market value for boats like the "M. F. Henderson" in 1911 or any recognized market value for boats of said character and in overruling the objection of the claimant and appellant to the question propounded to witness Shaver as follows:

"Q. Keeping in mind, Captain, that there is no fixed market value, there is not enough dealing in boats to fix a recognized market value, will you state when you come to it, what you would consider her general market value at that time?" and in permitting said question to be answered.

XII.

The court erred in overruling the objection of the claimant and appellant to the statement purporting to be the statement of the earnings and expenses of the steamer "M. F. Henderson" for the year 1909 and in permitting said statement to be received in evidence.

XIII.

The court erred in overruling the objection of the claimant and appellant to a statement purporting to be a statement of the earnings and expenses of the Steamer "M. F. Henderson" for the year 1910 and in admitting said statement in evidence.

XIV.

The court erred in overruling the objection of the claimant and appellant to a statement purporting to be a statement of the earnings and expenses of the

Steamer "M. F. Henderson" for the year 1911 and in admitting said statement in evidence.

XV.

The court erred in overruling the objection of the claimant and appellant to the question propounded to the witness Shaver as follows:

"Q. Have you or can you state the amount that you spent in building a new "Henderson"?"
and erred in admitting evidence of what was spent in building a new "M. F. Henderson."

XVI.

The court erred in overruling the objection of the claimant and appellant to evidence regarding the amount of salvage gotten from the old "Henderson" and the value of said salvage and in admitting evidence thereof.

XVII.

The court erred in overruling the objection of the claimant and appellant to the evidence as to the amount which was spent in putting the salvage in condition to use and in admitting evidence of what was spent in putting the salvage in condition to use.

XVIII.

The court erred in overruling the objection of the claimant and appellant to evidence tending to show charges made for the salary of the witness J. W. Shaver and of the salary of the brother of said witness, the engineer, and in admitting as an element of damage in this case the salary of the said witness and of the said brother.

XIX.

The court erred in overruling the objection of the claimant and appellant to evidence tending to show the cost of cleaning up wreckage, moving machinery, etc. amounting to the sum of \$817.66 and admitting said evidence and in considering said evidence, and erred in admitting in evidence the statement marked "Libellant's Exhibit 28."

XX.

The court erred in overruling the objection to the several vouchers offered in evidence and in admitting said vouchers in evidence marked "Libellant's Exhibit 29."

XXI.

The court erred in overruling the objection of the claimant and appellant to the vouchers tending to show the cost of raising the "Henderson" and in admitting said vouchers in evidence marked "Libellant's Exhibit 30."

XXII.

The court erred in overruling the objection of the claimant and appellant to the question propounded to the witness Hosford in regard to the value of the steamboat "Henderson" and in admitting the evidence of said witness in regard to the value of the steamboat "Henderson" in 1911.

XXIII.

The court erred in overruling the objection of the claimant and appellant to the testimony of the witness Conway and particularly to the itemized state-

ment offered in evidence by said witness, which statement purported to be an itemized statement of the cost of building a new "Henderson" and to be the cost of raising the wreck of the "Henderson" and erred in admitting said statement in evidence.

XXIV.

The court erred in overruling the objection of the claimant and appellant to the statement made by the witness Conway from the books of the libellant showing the expenditures in building the new "Henderson" and in admitting in evidence the said statement (Libellant's Exhibit 28) and in admitting same in evidence in regard to what was spent for building the new "Henderson."

XXV.

The court erred in overruling the objection of the claimant and appellant to evidence as to what was said by Captain Crowe and in admitting in evidence what was said by Captain Crowe and in overruling the motion of the claimant and appellant to strike out all evidence as to what was said by Captain Crowe, and all evidence as to what was done by Captain Crowe.

XXVI.

The court erred in overruling the objection of the claimant and appellant to the evidence offered by the witness Shaver on re-direct examination tending to show that if the "Henderson" had been lost entirely, and immediately on her loss a new boat had been ordered to replace her of the same style and to take the season as quickly as possible, what it would cost

to build such new boat in that way and in admitting evidence of such cost.

XXVII.

The court erred in overruling the objection of the claimant and appellant to the evidence offered by the libellant on the re-direct examination of the witness Shaver tending to show, if the stuff which came from the old "Henderson" had been taken and used and the job rushed and the boat put in good shape, what it would have cost and in admitting evidence thereof.

XXVIII.

The court erred in overruling the objection of the claimant and appellant to the evidence offered by the witness Shaver on re-direct examination as to the time it took to build the new "Henderson" and in admitting evidence of the time taken to build the new "Henderson."

XXIX.

The court erred in overruling the objection of the claimant and appellant to the itemized statement taken from the books of the Shaver Transportation Company in reference to the salvage of the wreck of the steamboat "Henderson" and in admitting said statement in evidence marked "Libellant's Exhibit 31," and erred in admitting each and every one of the several items of said statement and erred in considering said statement in evidence, and particularly erred in considering in evidence the wages, while working on the wreck, of J. W. Shaver, L. Shaver, E. A. Tabor, J. C. Wendell and E. S. Harlow whom the

evidence showed to be employees of the Shaver Transportation Company in the office of the said Shaver Transportation Company and not engaged upon the work of wrecking the "Henderson."

XXX.

The court erred in overruling the objection of the claimant and appellant to the question propounded to the witness Nelson on his direct examination:

Q. What would you say as to the condition of that hull at that time, whether it was more practical to build a new hull or try to repair that one?" and in admitting evidence tending to show that it would cost more to repair said hull than to have built a new one.

XXXI.

The court erred in finding that Oil Barge No. 93 and the officers in charge of said Oil Barge No. 93 were not negligent and that the collision between the Steamer "Henderson" and the barges towed by the Tug "Samson" was not due to the negligence and carelessness of the Oil Barge No. 93 and the officers in charge thereof.

XXXII.

The court erred in finding that the Steamer "Henderson" and the officers in charge of said Steamer "Henderson" were not negligent and that the collision between the Steamer "Henderson" and the barges towed by the Tug "Samson" was not due to the negligence and carelessness of the Steamer "Henderson" and the officers in charge thereof.

XXXIII.

The court erred in finding that the Tug "Samson" and the barges towed by the Tug "Samson" were guilty of any negligence and in finding that the officers and crew and employees of the claimant and appellant upon and in charge of the Tug "Samson" and of the said barges were negligent and in finding that the collision between the Tug "Samson" and the barges towed by the Tug "Samson" and the Steamer "M. F. Henderson" and Oil Barge No. 93, was caused by the negligence or fault of the Tug "Samson" and of the barges towed by the Tug "Samson" and by the negligence and fault of the officers and crew and employees of the claimant and appellant upon and in charge of the Tug "Samson" and her said tow.

XXXIV.

The court erred in finding that the collision between the Oil Barge No. 93 and the "M. F. Henderson" and the Tug "Samson" and the barges in tow of the Tug "Samson" was due entirely to the negligence of the officers, crew and employees upon and having charge of the Tug "Samson" and the barges in tow thereof, and in finding that the testimony does not show negligence on the part of the "M. F. Henderson" and her officers and crew and on the part of the Oil Barge and of her officers and crew and those in charge of Barge No. 93.

XXXV.

The court erred in finding that the evidence does not show that the "M. F. Henderson" and the offi-

cers and crew upon and in charge of the "M. F. Henderson" and that Oil Barge No. 95 and the officers and crew in charge of the said Oil Barge No. 93 were not negligent and that such negligence did not contribute to or cause the collision.

XXXVI.

The court erred in finding that after the giving of the first signal and its acceptance in ample time and with ample room to avoid a collision and with the vessels under control, the evidence does not show that the collision was caused by the negligence and recklessness of Oil Barge No. 93 and the officers and crew in charge of said Oil Barge and by the recklessness and negligence of the "M. F. Henderson" and of the officers and crew in charge of the "M. F. Henderson."

XXXVII.

The court erred in finding that it is unimportant whether the "Henderson" was struck by the center scow or by the port scow of the tow of the Tug "Samson" and in adjudging that the "Henderson" was struck and crushed by the port bow of the barges in tow of the Tug "Samson."

XXXVIII.

The court erred in finding that the final position of the "Henderson" on the shoals of Tenas Illihee Island was not due to the towing and pushing of the "Henderson" after the collision by the "Samson" and was not caused in whole or in part by the current down Clifton or Prairie Channel.

XXXIX.

The court erred in finding that the collision occurred on the Oregon side of the channel and not on the Washington or Puget Island side of the channel.

XL.

The court erred in considering the evidence of the officers upon the Oil Barge No. 93 and of the officers on board and in charge of the "M. F. Henderson" and the testimony of the officers in charge of the Tug "Samson" regarding the lights visible from each vessel and in ignoring the evidence regarding the lights visible from each vessel.

XLI.

The court erred in finding that the failure of the Oil Barge or of the Steamer "Henderson" to give the danger signal as provided by the rules for pilots in inland waters did not contribute to or cause the collision between the "M. F. Henderson" and Oil Barge No. 93 and the Tug "Samson" and the barges in tow thereof.

XLII.

The court erred in finding that the repeating of the passing signal by the Oil Barge after the first signal had been given and answered did not contribute to or cause the collision between said Oil Barge and the Steamer "Henderson" and the Tug "Samson" and the barges in tow thereof.

XLIII.

The court erred in finding that the "Samson" and her crew were solely responsible for the collision and

that the Oil Barge No. 93 and the "M. F. Henderson" were not responsible therefor.

XLIV.

The court erred in finding that the three scows in tow of the Tug "Samson" were responsible, with the "Samson" for the collision and for the damages resulting therefrom, and particularly erred in finding that any of said scows or barges which did not strike or collide with either the Oil Barge or the "Henderson" was responsible for said collision or the damages resulting therefrom.

XLV.

The court erred in assessing the damages sustained by the "Henderson" at the sum of \$30,870.75 and erred in ignoring the evidence on the part of the claimant and appellant in regard to such damages.

XLVI.

The court erred in finding that the libellant is entitled to recover from the claimant and appellant interest upon the principal sum of \$30,870.75 and erred in entering judgment therefor in favor of libellant and against the respondent.

XLVII.

The court erred in finding that the libellant was entitled to recover from the appellant damages in the sum of \$30,870.75 and erred in entering judgment in favor of libellant and against the appellant and against the Tug "Samson" and against the several barges in tow of the Tug "Samson" for said sum and for interest thereon.

XLVIII.

The court erred in finding that the claimant and appellant is liable to the respondent in personam, the Standard Oil Company, brought into this case by the libellant and not by the claimant and appellant, for the costs incurred by said respondent in personam the Standard Oil Company or any thereof, and erred in awarding to the said respondent in personam any judgment for costs against the claimant and appellant.

WIRT MINOR,
Proctor.

[Endorsed]: Assignments of Error. Filed Dec. 1, 1913.

A. M. CANNON,
Clerk U. S. District Court.

And afterwards, to wit, on the 27 day of December, 1913, there was duly filed in said Court, Additional Assignments of Error, in words and figures as follows, to wit:

[Additional Assignments of Error.]
(Title)

Comes now Columbia Contract Company, Claimant and Appellant, in the above entitled cause and assigns errors in that part of the decision and decree of the District Court in said cause which is embodied in a decision made and entered on the 15th day of December, 1913, allowing and disallowing costs in said cause, as follows:

I.

The court erred in allowing the thirty-three separate items, described in the cost bills filed by Libellant and by Respondent in personam as "Depositions," to be taxed as separate depositions at the rate of \$2.50 each.

II.

The court erred in allowing the three separate items described in both the above mentioned cost bills as being the testimony of J. W. Shaver to be taxed as separate depositions.

III.

The court erred in allowing the two separate items described in both the above mentioned cost bills as being the testimony of Daniel Kern to be taxed as separate depositions.

IV.

The court erred in allowing the testimony of two witnesses for Respondent in personam, to wit, Joseph Supple and Peter Carsten, to be taxed as separate depositions by Libellant against Claimant and Appellant.

V.

The court erred in allowing the testimony of ten witnesses for Claimant and Appellant, to wit, Alfred Duncan, Joseph Paquet, Robert McIntosh, Daniel Kern, J. E. Copeland, C. W. Bale, J. H. LaMoree, S. H. Shaver, T. H. Follett and C. A. Puriea, to be taxed as separate depositions by Libellant against Claimant and Appellant.

VI.

The court erred in allowing the testimony of the witnesses for Libellant and for Claimant and Appellant, to wit, all of the witnesses enumerated in the bill of costs filed by Respondent in personam except the witnesses Joseph Supple and Peter Carsten, to be taxed as separate depositions by Respondent in personam against Claimant and Appellant.

WIRT MINOR,
ROGERS MacVEAGH,
Proctors for Appellant.

[Endorsed]: Appellant's Additional Assignments of Error. Filed Dec. 27, 1913.

A. M. CANNON,
Clerk U. S. District Court.

And afterwards, to wit, on Tuesday, the 2 day of December, 1913, the same being the Judicial day of the Regular November, 1913, Term of said Court; Present: the Honorable R. S. BEAN, United States District Judge presiding, the following proceedings were had in said cause, to-wit:

[Order Enlarging Time to File Transcript.]

*In the District Court of the United States for the
District of Oregon.*

SHAVER TRANSPORTATION COMPANY, a corporation,

Libellant and Appellee,
vs.

STEAMER "SAMSON" BARGE No. 8, BARGE
No. 9 and BARGE No. 27,

COLUMBIA CONTRACT CO., a corporation,

Claimant and Appellant,
and

STANDARD OIL COMPANY INCORPORATED
UNDER THE LAWS OF THE STATE OF
CALIFORNIA, a corporation,

Respondent in personam and Appellee.

Now, at this day, for good cause shown, it is Ordered that Columbia Contract Co., a corporation, Claimant's time for filing the record and docketing this cause on appeal, in the United States Circuit Court of Appeals for the Ninth Circuit, be and the same hereby is extended up to and including the 1st day of January, 1914.

R. S. BEAN,
Judge.

And afterwards, to wit, on Monday, the 29 day of December, 1913, the same being the 47 Judicial day of the Regular November, 1913, Term of said Court; Present: the Honorable CHAS. E. WOLVERTON, United States District Judge presiding, the following proceedings were had in said cause, to-wit:

[Order Enlarging Time to File Transcript.]

*In the District Court of the United States for the
District of Oregon.*

No. 5420

December 29, 1913

SHAVER TRANSPORTATION COMPANY, a corporation,

Libellant and Appellee,
vs.

STEAMER "SAMSON" BARGE No. 8, BARGE
No. 9 and BARGE No. 27,

COLUMBIA CONTRACT CO., a corporation,
. Claimant and Appellant,
and

STANDARD OIL COMPANY INCORPORATED
UNDER THE LAWS OF THE STATE OF
CALIFORNIA, a corporation,

Respondent in personam and Appellee.

Now, at this day, for good cause shown, it is Ordered that Columbia Contract Co., a corporation, Claimant's time for filing the record and docketing this cause on appeal, in the United States Circuit Court of Appeals for the Ninth Circuit, be and the same hereby is extended up to and including the 1st day of April, 1914.

CHAS. E. WOLVERTON,
Judge.

And afterwards, to wit, on Thursday, the 5 day of March, 1914, the same being the 5th Judicial day of the Regular March, 1914, Term of said Court; Present: the Honorable CHAS. E. WOLVERTON, United States District Judge presiding, the following proceedings were had in said cause, to-wit:

[Order Certifying up Original Exhibits.]

(Title)

March 5, 1914

It appearing to the court that certain of the exhibits introduced in evidence upon the trial of this cause in this court are of such character as to require inspection by the appellate court upon the appeal herein;

It is Ordered, that libellant's original exhibits 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 21 A, 21 B, 21 C, 21 D, 22, 23, 24, 25, 25½, 26, 27, 28, 30, 31, 32, 33, 33 A and 34; respondent's exhibit 1; claimant's exhibits A, B, C, E and F, be certified up with the transcript upon appeal herein to the United States Circuit Court of Appeals, Ninth Circuit.

CHAS. E. WOLVERTON,

Judge.

[Statement of Clerk of United States District Court.]

*In the District Court of the United States for the
District of Oregon.*

THE STEAMER "SAMSON" and BARGE No. 8,
BARGE No. 9, and BARGE No. 27,
COLUMBIA CONTRACT COMPANY, a corpora-
tion,

Claimant and Stipulator,

SHAVER TRANSPORTATION COMPANY, a
corporation,

Libellant,

STANDARD OIL COMPANY INCORPORATED
UNDER THE LAWS OF THE STATE OF

CALIFORNIA, a corporation,
Respondent in Personam.

Be it Remembered, that on the 28th day of October, 1911, a libel was filed in the District Court of the United States for the District of Oregon, by the Shaver Transportation Company against the Steamer "Samson" and Barges No. 8, No. 9 and No. 27;

That thereafter the Columbia Contract Company filed its claim as owner of said steamer;

And on June 7, 1912, a supplementary libel was filed upon which monition was issued to the Standard Oil Company of California, which thereupon became a party to the cause.

That on June 29, 1912, the claimant filed its answer to the supplementary libel, and on October 27, 1912, the respondent, Standard Oil Company, filed its answer. That thereafter, on the 8th day of January, 1913, the trial of said cause was commenced before Judge E. E. Cushman, United States District Judge, for the Western District of Washington, and was finally submitted to the court upon the 11th day of September, 1913.

That thereafter, on the 29th day of September, 1913, an opinion was filed upon the merits, and on the 23rd day of October, 1913, final decree was entered. And on December 1, 1913, an order was entered finally settling all questions relating to the costs of the suit.

That on November 1, 1913, the claimant Columbia Contract Company, filed its notice of appeal to the United States Circuit Court of Appeals, ninth cir-

cuit.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court, this 6th day of March, 1914.

A. M. CANNON,
Clerk, United States District Court,
District of Oregon.

[**Clerk's Certificate.**]

UNITED STATES OF AMERICA,
District of Oregon,—ss.

I, A. M. Cannon, Clerk of the District Court of the United States for the District of Oregon, hereby certify that the foregoing pages, numbered 1 to 2094, inclusive, contain and are a true transcript of the record and proceedings had in said court in the cause therein entitled "The Steamer Samson; Shaver Transportation Company, libelant, vs. Columbia Contract Company, claimant; and Standard Oil Company, respondent in personam," and contains in itself, and not by reference, all the pleadings, papers, orders, journal entries and files in said cause made or considered by the court, and in any manner relating to the rendition of the final decree herein, the opinions of the court, the final decree, all the testimony produced at the trial, the depositions, the notice of appeal, and assignments of error, all as the same appear of record and on file in my office and in my official custody.

And there is herewith certified up with the record

on appeal, by order of the court, libelant's original exhibits 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 21 "A", 21 "B", 21 "C", 21 "D", 22, 23, 24, 25, 25½, 26, 27, 28, 30, 31, 32, 33, 33 "A" and 34; respondent's exhibit 1; Claimant's exhibit "A", "B", "C", "E", and "F".

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court, this day of March, 1914.

Clerk United States District Court
for the District of Oregon.

United States
Circuit Court of Appeals
For the Ninth Circuit.

THE STEAMER "SAMSON," and BARGE NO. 8,
BARGE NO. 9, and BARGE NO. 27.

COLUMBIA CONTRACT COMPANY, a Corpora-
tion,
Claimant and Appellant.

SHAVER TRANSPORTATION COMPANY, a
Corporation,
Libellant and Appellee.

STANDARD OIL COMPANY OF CALIFORNIA,
a Corporation,
Respondent in Personam.

Upon Appeal from the United States District Court
for the District of Oregon.

Additions to Apostles.

[Filed and Printed Pursuant to Order Entered May 28, 1914.]

[Motion to File Additions to Apostles, and Consent
to Allowance of Motion, etc.]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

The Steamer "SAMSON," BARGE NO. 8, BARGE
NO. 9, and BARGE NO. 27,

Appellants,

vs.

SHAVER TRANSPORTATION COMPANY,
Libelant and Appellee.

STANDARD OIL COMPANY, Incorporated Un-
der the Laws of the State of California, a
Corporation,

Respondent *in Personam* and Appellee.

The Standard Oil Company, incorporated under the laws of the State of California, and one of the appellees herein, gives the Court to know and be informed that the record transmitted to this Court is imperfect and incomplete in that certain papers noted below and certain proceedings had below have not been certified.

WHEREFORE, the appellee moves the Court for leave to produce and file at the hearing of this cause the following papers filed in proceedings had, namely:

1. The motion of the appellee to take the supplemental libel filed by the libelant from the files and to dismiss the cause as to said Standard Oil Company.

2. Order of the Court passed July 15, 1912, overruling said motion, together with the opinion of the Court by Bean, District Judge, filed thereon.

3. The exceptions taken by this appellee to the supplemental libel filed by the libelant.

4. The order of the Court of April 12, 1912, overruling the said exceptions.

ZERA SNOW and
WALLACE McCAMANT,
Attorneys for Appellee.

To the Shaver Transportation Company, Appellee, and to its Proctors, Messrs. Wood, Montague & Hunt, and to the Appellant, The Columbia Contract Company, and its Proctors, Teal, Winfree & Minor:

You will take notice that the foregoing motion will be filed and on the day this cause is called for hearing we will apply to the Court for the allowance of the same and for an order permitting the appellee, the Standard Oil Company, incorporated under the laws of the State of California, to file in the cause as a part of the apostles on appeal the papers and orders referred to in the foregoing motion.

SNOW & McCAMANT and
GEO. B. GUTHRIE,

Attorneys for Appellee, Standard Oil Company, Incorporated Under the Laws of the State of California.

Due service of this motion is admitted and it is consented that the motion may be allowed and the

matter referred to may be certified and filed as a part of the transcript.

C. E. S. WOOD,
ERSKINE WOOD,
Proctors for Shaver Tr. Co.
TEAL, MINOR & WINFREE,
Proctors for Columbia Contract Co.

[Endorsed]: No. 2393. In the United States Circuit Court of Appeals for the Ninth Circuit. The Steamer "Samson," Barge No. 8, Barge No. 9 and Barge No. 27, Appellants, vs. Shaver Transportation Co., Libellant and Appellee. Standard Oil Co., Respondent *in Personam* and Appellee. Motion to File Additions to Apostles and Consent to Allowance of Motion, etc. Filed May 23, 1914. F. D. Monckton, Clerk.

In the District Court of the United States for the District of Oregon.

IN ADMIRALTY—No. 5420.

SHAVER TRANSPORTATION COMPANY, a Corporation,

Libellant,

vs.

Steamer "SAMSON," BARGE NO. 8, BARGE NO. 9, and BARGE NO. 27.

COLUMBIA CONTRACT COMPANY, a Corporation,

Claimant,

vs.

STANDARD OIL COMPANY, Incorporated Under the Laws of the State of California, a Corporation,

Respondent.

Motion of Respondent to Take Supplemental Libel from the Files and Dismiss.

Standard Oil Company, incorporated under the laws of the State of California, a corporation, by its proctors, Snow & McCamant, enters its appearance to the supplemental libel filed by the libellant herein *in personam* against this respondent, and now moves the Court for the following orders:

For an order vacating any order which may have been entered herein granting leave to file the supplemental libel herein, and for an order setting aside the same and striking the same from the files, and for an order dismissing the supplemental libel as to this respondent, on the following grounds:

I.

The libellant has not stated such grounds in its supplemental libel, or in application to file the same, as entitles the libellant to file the supplemental libel herein; nor are the facts stated in the supplemental libel such as that the same constitute matters of supplemental libel herein; nor are the facts stated in the supplemental libel such as that any relief can be granted against this respondent.

II.

Libellant by its original libel herein filed against the steamer "Samson," Barge No. 8, Barge No. 9 and Barge No. 27, hath made and presented a case *in rem* against the said "Samson" and her barges, and by the supplemental libel filed herein the libellant has undertaken to proceed against this respondent *in personam*, and the two proceedings cannot be properly joined.

ZERA SNOW and
WALLACE McCAMANT,
GEO. B. GUTHRIE,

Proctors for the Respondent.

[Order Overruling Motion to Take Supplemental Libel from the Files, and Allowing Respondent Twenty Days to Further Plead.]

In the District Court of the United States for the District of Oregon.

No. 5420.

July 15, 1912.

Steamer "SAMSON"

vs.

SHAVER TRANSPORTATION CO.
COLUMBIA CONTRACT COMPANY,

Claimant.

STANDARD OIL COMPANY,

Respondent.

This cause heretofore submitted upon motion of the respondent, Standard Oil Company, to take supplemental libel from the files, came on regularly at

this time for the decision and ruling of the Court; whereupon, after due consideration, it is ORDERED that said motion to take supplemental libel from the files be and the same hereby is overruled, and it is further ordered that the respondent herein be and hereby is allowed 20 days to further plead.

[Opinion on Motion to Take Supplemental Libel
from the Files, etc.]

*In the District Court of the United States for the
District of Oregon.*

IN ADMIRALTY.

“THE SAMSON.”

THE SHAVER TRANSPORTATION CO.,
Libelant.

COLUMBIA CONTRACT CO.,
Claimant.

STANDARD OIL CO.,
Respondent.

WOOD, MONTAGUE & HUNT, of Portland,
Oregon, for Libelants.

SNOW & McCAMANT, of Portland, Oregon,
for Respondent.

R. S. BEAN, District Judge:

In July, 1911, the steamer “Henderson,” while towing Oil Barge No. 93, belonging to the Standard Oil Company, was wrecked in a collision on the Columbia River with the steamer “Samson,” having in tow three barges belonging to the Columbia Contract Company. The owner of the “Henderson”

libeled the "Samson" and her barges *in rem* to recover damages for the collision, and subsequently filed a supplemental libel *in personam* against the Standard Oil Company, the owner of Barge 93, on the ground that such barge was also at fault. The latter company moves to take the supplemental libel from the files on the ground that it cannot properly be sued jointly with the "Samson."

Passing the technical question whether the Oil Company should be made a party, if at all, by an amended or supplemental libel, the real question for decision is whether, in case of a joint liability of two or more vessels for a collision, a joint action can be maintained against one *in rem* and against the owner of the other *in personam*. There is but little direct authority on the point.

Admiralty Rules Nos. 12 to 20, inclusive, regulate the practice in specific instances but not in a case like the one under consideration. In cases not so provided the Court is authorized by Rule 46 to regulate the practice in such a manner as it may deem most expedient for the due administration of justice; hence an action on a contract of affreightment may be brought against a vessel *in rem* and the owner *in personam*. (The Director, 26 Fed. 708.) So also an action for tort may be maintained against an offending vessel *in rem* and against a joint tort seizure *in personam*. (The Clan Graham, 153 Fed. 977.) The reasoning upon which these decisions are based support the right of joinder in the case now in hand. There is no such incompatibility between proceedings *in rem* against one vessel and *in personam*

against the owners of another when both are jointly liable for the collision as will prevent their joinder. On the other hand, it is calculated to advance the ends of substantial justice. A suit to recover damages for a collision cannot, under Rule 15, properly be brought against a vessel *in rem* and her owner *in personam*. (*The Corsair*, 145 U. S. 335.) But this rule has no reference to an action against one vessel *in rem* and the owner of another *in personam*. Judge Longear, in "Young America," Fed. Cases 18,178, was of the opinion that a joint action in such a case could not be maintained, but in view of Rule 46, as interpreted by this Court, the liberality of the admiralty procedure, its purpose to avoid a multiplicity of suits and to determine the entire controversy in one proceeding where it can be done without injury to the rights of either party, I am constrained to believe that the better doctrine is that stated by that eminent admiralty lawyer, Judge Brown of the Southern District of New York, in *Joice vs. Canal Boats*, 32 Fed. 553:

"When two vessels are in fault in causing damage to the libelant by collision, the 15th rule, I am satisfied does not prohibit the filing of a libel against the one vessel *in rem* and against the owner of the other vessel *in personam*, although in the case of *The Hudson*, 15 Fed. 172, this was supposed to be its effect. The case is not provided for in the Supreme Court rules except under the 59th rule, and the general scope and purpose of that rule evidently requires that such joinder should be allowed where the second

vessel cannot be reached by process; or where, as in this case the liability of others is *in personam* only."

The question is one of procedure and should be determined by considerations of economy, fitness and convenience, and every argument drawn from this source is in favor of the joinder.

The motion will therefore be overruled and the Oil Company allowed twenty days in which to plead further.

In the District Court of the United States for the District of Oregon.

IN ADMIRALTY—No. 5420.

SHAVER TRANSPORTATION COMPANY, a Corporation,

Libelant,

vs.

Steamer "SAMSON," BARGE NO. 8, BARGE NO. 9, and BARGE NO. 27,

Defendants.

COLUMBIA CONTRACT COMPANY, a Corporation,

Claimant.

STANDARD OIL COMPANY, Incorporated Under the Laws of the State of California, a Corporation,

Respondent.

Respondent's Exceptions to Libelant's Supplemental Libel.

To the Honorable the Judges of the Above-entitled Court:

The exceptions of Standard Oil Company, incor-

porated under the laws of the State of California, a corporation, respondent herein, to the "Supplemental Libel" of Shaver Transportation Company, libelant, allege insufficiency in the said libel as follows:

I.

That the said "Supplemental Libel" and the whole thereof is uncertain and insufficient in that it does not charge this respondent with the violation of any duty owed to the libelant by this respondent, but, on the contrary, expressly asserts negligence in navigation on the part of the steamer "Samson" and her barges, as also does it assert due care and proper navigation on the part of the steamer "Henderson" and Barge No. 93, and the said libel wholly fails to state facts sufficient to constitute a cause of suit against this respondent.

II.

That the said "Supplemental Libel" and the whole thereof is manifestly indirect, inconsistent, and insufficient, for the reason that this respondent is liable to the libelant, if at all, under a breach of its contract of charter with the owners of the "Henderson," as manifestly appears from the said libel itself, and this respondent was not, and cannot be, as to the libelant, a joint tort-feasor with the "Samson" on account of the negligence asserted in either the "Amended Libel" of the libelant or the answer of the claimant, and that thereby two separate causes of action are improperly joined herein; as also is it improper under the Rules and Practices in Admiralty by process *in personam* to join this

respondent in the same suit with a proceeding *in rem* brought against the steamer "Samson" and her barges.

III.

That the said "Supplemental Libel" and the whole thereof is uncertain, indirect, evasive, and insufficient in that, as manifestly appears by Article VII thereof, libelant's asserted claim against this respondent is wholly hypothetical, based upon the condition that libelant's averments in its "Amended Libel" are false and untrue, whereas libelant is bound to know the truth of its articles in this cause propounded under oath.

WHEREFORE, your respondent prays that an order may be passed dismissing the "Supplemental Libel" filed against it, and that respondent may recover its costs in this cause incurred.

SNOW & McCAMANT and
GEO. B. GUTHRIE,

Proctors for Standard Oil Company, Incorporated
Under the Laws of the State of California.

[Order Denying Exceptions to Supplemental Libel,
and Granting Respondent Fifteen Days to
Answer.]

*In the District Court of the United States for the
District of Oregon.*

No. 5420.

August 12, 1912.

Steamer "SAMSON," BARGES 8, 9, and 27.
COLUMBIA CONTRACT CO.,

Claimant.

SHAVER TRANSPORTATION CO.,

Libelant.

This cause heretofore submitted upon exceptions to supplemental libel came on regularly at this time for the decision and ruling of the Court; whereupon, after due consideration, it is ORDERED that said exceptions to supplemental libel herein be and the same are hereby denied and respondent granted 15 days to answer herein.

[Certificate of Clerk U. S. District Court to Copy of
Motion to Take Supplemental Libel from Files,
etc., and that Respondent in Personam An-
swered.]

United States of America,
District of Oregon,—ss.

I, A. M. Cannon, Clerk of the United States District Court for the District of Oregon, do hereby certify that the annexed copies of motion to take supplemental libel from the files and dismiss, order

of the Court overruling the motion, opinion of the Court thereon, exceptions of respondent to libelant's supplemental libel, and order of the Court overruling exceptions are full, true and correct copies of the originals thereof as the same appear of record and on file at my office and in my official custody.

I further certify that after the overruling of the exceptions respondent *in personam* answered as hereinbefore in the certificate to the apostles on appeal certified.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of said court at Portland, in said District, this May 19, 1914.

[Seal]

A. M. CANNON,

Clerk.

[Endorsed]: No. 2393. United States Circuit Court of Appeals for the Ninth Circuit. Filed May 23, 1914. F. D. Monckton, Clerk.

At a stated term, to wit, the October Term, A. D. 1913, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the court-room thereof, in the City and County of San Francisco, in the State of California, on Thursday the twenty-eighth day of May, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable WILLIAM B. GILBERT, Circuit Judge, Presiding; Honorable ERSKINE M. ROSS, Circuit Judge; Honorable WILLIAM W. MORROW, Circuit Judge.

No. 2393.

The Steamer "SAMSON," and BARGE NO. 8,
BARGE NO. 9, and BARGE NO. 27.

COLUMBIA CONTRACT COMPANY, a Corpora-
tion,

Claimant and Appellant.

SHAVER TRANSPORTATION COMPANY, a
Corporation,

Libellant and Appellee.

STANDARD OIL COMPANY OF CALIFORNIA,
a Corporation,

Respondent *in Personam.*

**Order of Submission of Appeal and Allowing Filing
of Additions to Apostles.**

ORDERED, appeal in the above-entitled cause argued by Mr. Wirt Minor, counsel for the appellant, Mr. Erskine Wood, counsel for the appellee, and Mr. Ira A. Campbell, counsel for the respondent Standard Oil Company of California, and submitted to the Court for consideration and decision, with leave to the Respondent Standard Oil Company of California to file and print certain additions to the Apostles and to add a printed copy of such additions to each of the printed copies of the apostles on file herein.

